MONTANA LEGISLATIVE HISTORY

Chapter 401 19 99

Bill H 444 S _____ Original bill & history ✓ C

H. Committee on Agriculture			S. Committee on Agriculture Livestock, & Irrigation		
Hearing Date(s)	2/11	✓ C	Hearing Date(s)	_____	___ C
	_____	___ C		3/3	✓ C
	_____	___ C		_____	___ C
	_____	___ C		_____	___ C
Date Out	2/11	✓ C	Date out	3/3	✓

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

HB 443 Introduced by Bookout-Reinicke *LC1566 Drafter: Petesch*

Provide That a Majority Vote of the Electors of a City or Town Is Required for the Issuance of Bonds;...

1/30	Introduced and 1st Reading		
1/30	Referred to Local Government		
2/11	Hearing		
2/15	Committee Executive Action--Bill Passed	12	7
2/15	Committee Report--Bill Passed		
2/19	2nd Reading Passed	63	31
2/20	3rd Reading Passed	67	32
	Transmitted to Senate		
2/22	Referred to Local Government		
3/18	Hearing		
3/19	Committee Executive Action--Bill Concurred	7	1
3/19	Committee Report--Bill Concurred		
3/20	2nd Reading Concurred	38	0
3/22	3rd Reading Concurred	48	1
	Returned to House		
3/23	Sent to Enrolling		
3/23	Returned from Enrolling		
3/24	Signed by Speaker		
3/24	Signed by President		
3/25	Transmitted to Governor		
3/29	Signed by Governor		
3/30	Chapter Number Assigned		
	Chapter Number 190		
	Effective Date: 3/26/1999 - All Sections		

HB 444 Introduced by B. Thomas, et al. *LC1281 Drafter: Sternberg*

Revise Certain Provisions of the Grass Conservation Act;...

12/15	Fiscal Note Needed		
1/30	Introduced and 1st Reading		
1/30	Referred to Agriculture		
1/30	Fiscal Note Requested		
2/06	Fiscal Note Received		
2/06	Fiscal Note Printed		
2/11	Hearing		
2/12	Committee Executive Action--Bill Passed as Amended	17	2
2/12	Committee Report--Bill Passed as Amended		
2/18	2nd Reading Passed	89	5
2/19	3rd Reading Passed	92	7
	Transmitted to Senate		
2/22	Referred to Agriculture, Livestock and Irrigation		
3/03	Hearing		
3/11	Committee Executive Action--Bill Concurred as Amended	10	0
3/11	Committee Report--Bill Concurred as Amended		
3/13	2nd Reading Concurred	43	0
3/15	3rd Reading Concurred	49	0
	Returned to House with Amendments		
4/13	2nd Reading Senate Amendments Concurred	82	18

4/14	3rd Reading Passed as Amended by Senate	87	12
4/14	Sent to Enrolling		
4/15	Returned from Enrolling		
4/16	Signed by Speaker		
4/16	Signed by President		
4/17	Transmitted to Governor		
4/21	Signed by Governor		
4/22	Chapter Number Assigned		
	Chapter Number 401		
	Effective Date: 7/01/1999 - All Sections		

HB 445 Introduced by Juneau, et al. *LC1069 Drafter: Heffelfinger*

Provide for Voter Registration on Election Day;...

1/22	Fiscal Note Requested (Local Government Fiscal Impact)
1/30	Introduced and 1st Reading
1/30	Referred to State Administration
2/01	Fiscal Note Requested
2/01	Fiscal Note Received
2/02	Fiscal Note Signed
2/02	Fiscal Note Printed
2/10	Hearing
2/10	Tabled in Committee
3/01	Missed Deadline for General Bill Transmittal

HB 446 Introduced by Juneau, et al. *LC1071 Drafter: Heffelfinger*

Allow a Qualified Inactive Elector to Become Active If the Elector Appears in Order to Vote in Any Election;...

1/22	Fiscal Note Requested (Local Government Fiscal Impact)
1/30	Introduced and 1st Reading
1/30	Referred to State Administration
2/01	Fiscal Note Requested
2/02	Fiscal Note Received
2/02	Fiscal Note Signed
2/03	Fiscal Note Printed
2/10	Hearing
2/10	Tabled in Committee
3/01	Missed Deadline for General Bill Transmittal

HB 447 Introduced by Ewer, et al. *LC1157 Drafter: B. Campbell*

Provide for Local Input in Gambling Decisions by Providing Regulations for Casinos;...

2/01	Introduced and 1st Reading
2/01	Referred to Local Government
2/01	Fiscal Note Requested
2/06	Fiscal Note Received
2/08	Fiscal Note Signed
2/09	Fiscal Note Printed
2/16	Hearing
2/17	Tabled in Committee
3/01	Missed Deadline for General Bill Transmittal

House BILL NO. 444 R Harris

INTRODUCED BY E. Thomas Grinde
(Primary Sponsor) K. T. Dale

Hagel

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN PROVISIONS OF THE GRASS CONSERVATION ACT; CREATING THE MONTANA GRASS CONSERVATION COMMISSION; PRESCRIBING THE MEMBERSHIP AND DUTIES OF THE COMMISSION; TRANSFERRING PRIMARY ADMINISTRATION OF THE GRASS CONSERVATION ACT FROM THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO THE MONTANA GRASS CONSERVATION COMMISSION; REVISING DEFINITIONS; REVISING THE ADMINISTRATIVE FEE FOR IMPLEMENTING THE GRASS CONSERVATION ACT FROM 15 CENTS PER ANIMAL UNIT TO 5 CENTS PER ANIMAL UNIT MONTH OF PREFERENCE; ELIMINATING THE 40-YEAR LIMIT ON THE TERM OF INCORPORATION OF A STATE GRAZING DISTRICT; REQUIRING UPDATE AND REVIEW OF THE BYLAWS OF INCORPORATED STATE DISTRICTS; ALLOWING CERTAIN MEMBERS OF A DISTRICT THAT IS BEING LIQUIDATED TO MEET THE HIGHEST BID ON DISTRICT ASSETS; REVISING DISTRICT VOTING PROCEDURES; REVISING PROCEDURES FOR AND INCREASING THE FEE ASSOCIATED WITH TRESPASSING LIVESTOCK; AND AMENDING SECTIONS 76-16-103, 76-16-106, 76-16-107, 76-16-108, 76-16-109, 76-16-111, 76-16-201, 76-16-202, 76-16-203, 76-16-204, 76-16-206, 76-16-207, 76-16-208, 76-16-209, 76-16-210, 76-16-211, 76-16-212, 76-16-302, 76-16-303, 76-16-304, 76-16-307, 76-16-308, 76-16-311, 76-16-315, 76-16-316, 76-16-319, 76-16-323, 76-16-325, 76-16-403, 76-16-406, 76-16-413, AND 76-16-414, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-16-103, MCA, is amended to read:

"**76-16-103. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Animal unit" means one cow, one horse, or five sheep, 6 months ~~old or over~~ of age or older.

(2) "Animal unit month" or "AUM" means one cow/calf pair, one horse, or five sheep, grazed individually for 1 month, or an equivalency as determined by a local grazing district.

(3) "Assessment" means a special levy imposed on permittee members by the state district to raise funds for specific purposes as provided in 76-16-323(1). The term does not include fees.

INTRODUCED BILL
HB 444

~~(3)~~(4) "Commensurate property" means land that is privately owned or controlled and that is not range.

(5) "Commission" means the Montana grass conservation commission provided for in [section 33].

~~(4)~~(6) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

~~(5)~~(7) "Dependent commensurate property" is commensurate property that:

(a) requires the use of range in connection with it to maintain its proper use;

(b) produces or whose owner furnishes as part of the owner's past customary practice the proper feed necessary to maintain livestock during the time other than the established grazing period on the range; and

(c) has been used in connection with the range for a period of any 3 years or for any 2 consecutive years in the 5-year period immediately preceding June 28, 1934, or in the case of districts organized after March 15, 1945, for a 5-year period immediately preceding the date of organization of the districts.

~~(6)~~(8) "Grazing preference" is a right to obtain a grazing permit from a state district, expressed in animal unit months. Grazing preferences, expressed in AUM's, must be the basis for determining a member's proportionate interest in grazing district assets.

~~(7)~~(9) "Permits" are evidence of grazing privileges granted by state districts.

~~(8)~~(10) "Person" means a natural person or persons, unincorporated associations, partnerships, corporations, and governmental departments or agencies.

~~(9)~~(11) "Range" is the land within a grazing district upon which grazing permits are granted to maintain livestock through the established grazing period.

(12) "Secretary" means the secretary of the Montana grass conservation commission.

~~(10)~~(13) "State district" means a nonprofit cooperative organization incorporated under this chapter and its board of directors. The term includes all lands owned or controlled by the state district or its members."

Section 2. Section 76-16-106, MCA, is amended to read:

"**76-16-106. ~~Department~~ Commission fees.** (1) The ~~department~~ commission may impose fees

against the ~~several~~ state grazing districts of the state in an amount not in excess of ~~15~~ 5 cents per animal unit month of preference, based upon the number of animal ~~units~~ unit months per year for which the district grants permits, to defray expenses incurred by the ~~department~~ commission in carrying out its powers and duties under this chapter.

(2) These fees ~~shall~~ must be held in the state special revenue fund to be expended by order and direction of the ~~department~~ commission for the operation and administration of the ~~department's functions~~ commission under this chapter.

(3) If a state district fails or refuses to pay the fee on or before October 1 of each year and after the district is provided with a full report from the department of all money collected and expended by it for its fiscal year ~~next~~ preceding that date, the ~~department~~ commission may compel and levy collection and payment by writ of mandate or other appropriate remedy against the state district."

Section 3. Section 76-16-107, MCA, is amended to read:

"**76-16-107. Range for wild game animals.** In each state district a sufficient carrying capacity of range ~~shall~~ must be reserved for the maintenance of a reasonable number of wild game animals to use the range in common with livestock grazing in the district. The ~~department~~ commission may act in an advisory capacity to the department of fish, wildlife, and parks in the protection of wildlife within the boundaries of all state districts. ~~The department shall encourage the transfer of beaver from streams where they are doing damage to other streams where they are needed.~~"

Section 4. Section 76-16-108, MCA, is amended to read:

"**76-16-108. Nature of rights.** (1) Preferences or rights under this chapter through the creation of the district or the issuance of permits ~~or preferences~~ based on AUMs of preference are statutory and do not create any vested right, title, interest, or estate in or to the lands owned or controlled by the district ~~excepting~~ except as ~~herein~~ provided in this chapter.

(2) ~~Any~~ A person who chooses to become a member of ~~any~~ a state district is bound by all the provisions of this chapter and is limited to the statutory remedies ~~therein~~ contained in this chapter, and ~~no~~ a court ~~shall have~~ has no jurisdiction to consider any right claimed under this chapter ~~excepting only~~ except by judicial review from the final decision of the commission as ~~herein~~ provided in this chapter."

Section 5. Section 76-16-109, MCA, is amended to read:

"**76-16-109. Appeal procedure.** (1) Notice of a decision of a state district must be given in writing by the secretary of the state district to the interested parties or their attorneys by certified mail at the address as shown on the records of the district.

(2) A person affected by the decision of a state district may appeal to the ~~department~~ commission, and the ~~department~~ commission shall hear and decide all those appeals. An appeal from the decision of the district to the ~~department~~ commission may be taken by filing written notice of the appeal with the ~~department~~ commission, by filing a copy of the notice of appeal with the secretary of the district, and by serving a copy of the notice of appeal by certified mail upon any interested parties who have appeared or upon their attorneys within 60 days after receiving written notice of the decision of the district. The appellant shall also file with the ~~department~~ commission proof by affidavit of the filing and service of the notice of appeal. The appeal to the ~~department~~ commission must be taken and review of the appeal must be upon the record of any hearing conducted and considered by the state district. However, the ~~department~~ commission may, at its discretion and for good cause shown, permit additional testimony to be submitted."

Section 6. Section 76-16-111, MCA, is amended to read:

"**76-16-111. What constitutes receipt of notice.** In all cases where notices are given permittees under this chapter by registered or certified mail and addressed to the post-office address of the permittee as shown by the records of the state district, the notices ~~shall~~ must be considered received by the permittee when deposited in the United States post office by the district or by the ~~department~~ commission."

Section 7. Section 76-16-201, MCA, is amended to read:

"**76-16-201. Procedure to incorporate state district.** (1) If three or more persons who own or control commensurate property and are livestock operators within the area proposed to be created into a state district decide to incorporate a state district, they shall submit a statement in writing to the ~~department~~ commission together with a plat showing the proposed boundaries of the area.

(2) The statement shall set forth the name of the proposed state district, the county or counties in which the proposed state district is located, and the names and addresses of all operators of land and

livestock units within the area. The ~~department~~ commission may require any additional information it considers necessary.

(3) On receipt of the statement and plat and any additional information, the ~~department~~ commission shall fix a time and place of a hearing for approval within the district or county, which may not be less than 30 days or more than 60 days after receipt of the statement."

Section 8. Section 76-16-202, MCA, is amended to read:

"**76-16-202. Notice and hearing on question of incorporation.** (1) The persons deciding to incorporate the state grazing district shall cause notice of the hearing to be given by publishing a notice prescribed by the ~~department~~ commission once a week for 2 consecutive weeks, the first publication to be at least 30 days prior to the date of hearing, in a newspaper of general circulation in the area.

(2) The ~~department~~ commission shall hear evidence offered in support of or in opposition to the creation of the state district and shall make a full inquiry into the advisability of its creation."

Section 9. Section 76-16-203, MCA, is amended to read:

"**76-16-203. Certificate of approval.** If the creation of the state district appears feasible, beneficial, and desirable to those who own or control more than 50% of the lands to be included in the district, the ~~department~~ commission may issue a certificate of approval."

Section 10. Section 76-16-204, MCA, is amended to read:

"**76-16-204. Articles of incorporation.** (1) Upon the issuance of the certificate of approval, three or more persons who own or control commensurate property and are livestock operators within or near the proposed state district may prepare articles of incorporation and file them in the office of the secretary of state without payment of fees.

(2) The articles ~~shall~~ must be accompanied by the certificate of approval and signed, sealed, and acknowledged. The articles, as prescribed by the ~~department~~ commission, shall substantially state the following:

(a) the name of the state district, the last four words of which ~~shall~~ must be "cooperative state grazing district";

(b) the county or counties in which the state district is located and the place where the principal

office and business of the state district will be conducted;

(c) the membership fee for each member of the state district, which may not be more than $5;

~~(d) the term for which the state district is incorporated, which may not exceed 40 years;~~

~~(e)~~(d) the names and residences of the persons who subscribe, together with a statement that each owns or controls commensurate property and is a livestock operator within the proposed state district;

~~(f)~~(e) the powers of the state district, which may not be inconsistent with this chapter;

~~(g)~~(f) the officers of the state district, their principal duties, and the principal duties of the board of directors;

~~(h)~~(g) the purpose for which the state district is incorporated."

Section 11. Section 76-16-206, MCA, is amended to read:

"**76-16-206. Amending articles of incorporation.** (1) A state district may amend its articles of incorporation by a two-thirds vote of all members present at any regular or special meeting of its members and the approval of the ~~department~~ commission. The only notice of the meeting ~~which~~ that is necessary is the notice of meetings of members as required by the bylaws of the district. The amended articles of incorporation and bylaws ~~shall~~ must be submitted to the ~~department~~ commission for approval. Upon approval, the ~~department~~ commission shall issue a certificate of approval. The amended articles of incorporation ~~shall~~ must be filed by the secretary of state without charge, but may not be filed unless accompanied by the certificate of approval. If the articles of incorporation are amended, the amendment ~~shall~~ must be filed with the county clerk or clerks.

(2) Upon the filing of the amended articles with the secretary of state and the proper county clerk or clerks, the district possesses the same powers and ~~shall be~~ is subject to the same obligations as if incorporated under this chapter."

Section 12. Section 76-16-207, MCA, is amended to read:

"**76-16-207. Filing of map or plat of district.** A state district shall, upon completion of its organization, file with the commission and the county clerk and recorder of each county in which its lands lie a map or plat of the external boundaries of the state district showing the allocation of individual allotments, members running in common allotments, allotment names, and references to lands used as

base properties, ~~and~~ along with a copy of its articles of incorporation. If the boundaries of a state district are changed and the changes are approved by the ~~department~~ commission after a hearing, the state district shall file with the county clerk or clerks and with the commission a revised map or plat indicating the changed boundaries."

Section 13. Section 76-16-208, MCA, is amended to read:

"**76-16-208. Adoption of bylaws and periodic review -- annual report.** (1) A state district incorporated under this chapter shall within 60 days after its incorporation adopt bylaws approved by the ~~department~~ commission. The bylaws may be amended or revised with the approval of the ~~department~~ commission. Each incorporated district shall review and update its bylaws to ensure compliance with this chapter and the general laws of this state. The first review and update must be completed no later than January 1, 2001. Subsequent review and update must be completed at reasonable intervals, not to exceed 5 years.

(2) Each state district incorporated under this chapter shall report annually to the commission any changes to the allocation of grazing preferences, redefinitions of grazing allotment boundaries, or dispositions of base properties within the district. The annual reports must include an updated plat depicting current allocation of preferences, grazing allotment boundaries, and a list of all members running in common allotments where more than one member may have grazing preferences."

Section 14. Section 76-16-209, MCA, is amended to read:

"**76-16-209. Alteration of district.** (1) A state district may change the boundaries of the district, merge with another state district organized under this chapter, or subdivide.

(2) A merger may not be made unless consented to by a majority of the members of each merging state district and approved by the ~~department~~ commission after a hearing.

(3) A subdivision may not be made unless consented to by a majority of the members in the affected area and approved by the ~~department~~ commission after a hearing."

Section 15. Section 76-16-210, MCA, is amended to read:

"**76-16-210. Request for dissolution of district.** A state district, with the written consent of three-fourths of its permittee members, may at any time request the ~~department~~ commission to dissolve

the state district subject to the preferences of this chapter. The commission shall establish procedures for the dissolution of any state district."

Section 16. Section 76-16-211, MCA, is amended to read:

"**76-16-211. Dissolution of district.** (1) If a state district ceases to function in accordance with its bylaws and this chapter and it appears to the ~~department~~ commission that the reinstatement and future operation of the district is no longer feasible, beneficial, and desirable to ~~those who own or control more than 50% of the lands included in~~ the majority of members of the district, the ~~department~~ commission, after a hearing and upon 30 days' notice in writing, published for 2 consecutive weeks in a newspaper of general circulation in or nearest to the district, may dissolve the district.

(2) A notice of the dissolution must be filed by the ~~department~~ commission with the secretary of state and the clerk and recorder of the county or counties in which the district is located."

Section 17. Section 76-16-212, MCA, is amended to read:

"**76-16-212. Distribution of district assets.** (1) When a hearing on the request for dissolution has been held before the ~~department~~ commission and the board's consent has been given, the directors shall distribute the assets of the state district, either in items of property or in cash or in both. Distribution ~~shall~~ must first be made with the approval of the ~~department~~ commission to creditors up to the amount of their claims. Distribution ~~shall~~ must then be made with the approval of the ~~department~~ commission to permittee members upon the basis of their proportionate interest in the assets.

(2) If assets must be liquidated, the directors shall offer them for sale at public auction or through another competitive bidding procedure after publication of a notice of the sale once a week for 2 successive weeks in a newspaper of general circulation within the state district. District members holding grazing preference directly proportional to and associated with the assets being liquidated must be offered an opportunity to meet the highest bid submitted through the bidding process."

Section 18. Section 76-16-302, MCA, is amended to read:

"**76-16-302. Membership in district.** (1) Membership in the district is limited to persons engaged in the livestock business who own or lease forage-producing lands within or near the district, except that the agent of a person entitled to membership in the district may become a member in place of ~~his~~ the

agent's principal.

(2) If an agent becomes a member, ~~his~~ the agent's qualifications for membership and ~~his~~ the agent's obligations to and the privileges in the district ~~shall~~ must be measured by those ~~his~~ that the agent's principal would have had if ~~he~~ the principal had elected to become a member. An agent and ~~his~~ the agent's principal may not both be members of the district unless the agent has individual qualifications for membership ~~which~~ that are separable from and independent of those of ~~his~~ the principal.

(3) ~~All members who possessed preferential grazing permits~~ Livestock producers owning or controlling base property within the designated boundaries of the district and who held preference during the preceding grazing season or ~~who possess such a permit~~ at the time of voting ~~shall~~ must be designated as permittee members."

Section 19. Section 76-16-303, MCA, is amended to read:

"**76-16-303. Voting rights.** ~~Permittee~~ Only permittee members ~~only~~ in good standing as set forth in the district bylaws are entitled to vote on all issues submitted to a vote of the members. Individuals or livestock producers who operate on temporary permits may not vote. A permittee member has only one vote. Voting by proxy may not be permitted unless clearly outlined procedures for proxy voting are incorporated into the district bylaws."

Section 20. Section 76-16-304, MCA, is amended to read:

"**76-16-304. Effect of transfer of land.** When a member disposes of a part of the lands or leases owned by ~~him~~ that member so that another person becomes the owner of the lands or leases and acquires the right to membership, then the rights and interest involved ~~shall~~ must be determined by the directors of the state district with the approval of the ~~department~~ commission."

Section 21. Section 76-16-307, MCA, is amended to read:

"**76-16-307. ~~Requirement to lease available~~ Leasing of state lands.** State land ~~situated~~ that is situated within the boundaries of a grazing district created under this chapter ~~and that is not otherwise disposed of by the department must be leased by the grazing district at a reasonable rental when offered for lease to the officers of the grazing district by the department. However, the officers of the grazing district may appear or submit evidence in writing before the department and show reason and cause for~~

~~a change in the rental. If there is cause, the department may reappraise the land in question~~ may be leased by one or more members of a grazing district if the lease is in accordance with existing laws and regulations of the department. The board of directors of a cooperative state district may assist members of a grazing district in acquiring and administering a state grazing lease. The ~~department~~ commission shall require that all state districts comply with this section."

Section 22. Section 76-16-308, MCA, is amended to read:

"**76-16-308. Regulation of stock grazing in district.** A state district may:

(1) specify the breed, quality, and number of male breeding animals ~~which~~ that each member must furnish when stock is grazing in common in the state district;

(2) regulate the driving of stock over, across, into, or through the range and collect fees ~~therefor;~~

~~(3) impose sanitary provisions, regulations, and practices~~ for driving stock."

Section 23. Section 76-16-311, MCA, is amended to read:

"**76-16-311. Control of trespassing livestock.** (1) The state district or its duly authorized agent controlling the land upon which ~~such~~ wrongful entry is made by trespassing livestock may take the livestock into its possession ~~such livestock~~ and shall reasonably care for ~~same~~ the livestock while in its possession and may retain possession of ~~said~~ the livestock and have a lien and claim ~~thereon~~ on the livestock as security for payment of ~~such~~ damages and reasonable charges for the care of ~~said~~ livestock while in its possession.

(2) The state district taking ~~up such~~ possession of trespassing livestock shall, within 72 hours after taking possession ~~thereof~~, notify ~~said~~ the owner, owners, or person in charge thereof of the livestock by a notice in writing describing said the livestock by number of animals and brands thereon on the livestock, if any, the amount of damages claimed to date, and the charge per animal unit per day for caring for and feeding the same livestock thereafter, such charges. Charges may not to exceed 50 cents $2 per animal unit per day, and describing by general description. The notice must generally describe the location of the premises upon which said where the livestock is held and requiring such require the owner or owners, within 10 days after receiving said the notice, to take said the livestock away after making full payment of all damages and costs of said livestock.

(3) In case the parties do not agree as to the amount of damages, the state district taking up

~~such~~ possession of the livestock may at the expense of the owner retain a sufficient ~~amount~~ number of ~~such~~ livestock to cover the amount of damages claimed by the state district. However, the owner may, upon furnishing a ~~good and~~ sufficient bond, conditioned for the payment to the state district of all sums, including costs that may be recovered by ~~said~~ the state district in a civil action to foreclose its lien, have returned to ~~him~~ the owner all livestock held ~~as aforesaid, and said~~. The state district ~~shall be~~ is liable to ~~such~~ the owner for any loss or injury to ~~said~~ the livestock accruing through the state district's lack of reasonable care.

(4) If the state district taking ~~up~~ possession of the livestock ~~shall fail~~ fails to recover in a civil action a sum equal to that offered to the state district by the owner of the livestock, the ~~former~~ state district shall bear the expense of keeping and feeding ~~same~~ the livestock while in its possession. ~~Such notice~~ Notice may be given by personal service on the ~~said~~ owner, owners, or person in charge ~~thereof, by leaving said notice at his usual place of residence with some member of his family over the age of 14 years, or~~ of the livestock by sending ~~said~~ notice by prepaid registered or certified mail, addressed to ~~his~~ that person's last known place of residence. ~~Said service~~ Service by registered or certified mail ~~shall be deemed~~ is considered complete upon the deposit of ~~said~~ the notice in the post office."

Section 24. Section 76-16-315, MCA, is amended to read:

"**76-16-315. Procedure upon inability to locate person responsible for trespassing livestock.** ~~The~~ If a state district ~~taking up such~~ takes possession of livestock ~~(if,~~ after due diligence to discover the owner or possessor of ~~such~~ the livestock~~, such~~ and the owner or possessor cannot be found or the ownership of ~~such~~ the livestock discovered~~)~~ or ~~the~~ if a party ~~taking up such~~ takes possession of livestock ~~(if said~~ and the owner or claimant ~~shall refuse~~ refuses to pay the amount of damages or charges or to furnish bonds ~~therefor~~, as ~~herein~~ provided~~)~~ in 76-16-311, the state district or person shall, within 10 days from the time that ~~said~~ the livestock was taken ~~up~~ into possession, deliver to the sheriff ~~or a constable~~ of the county in which the livestock was taken ~~up~~ into possession or to the nearest state livestock inspector a statement containing the information required to be given in the notice~~, hereinbefore~~ set out~~,~~ ~~and~~ in 76-16-311 ~~addition thereto, he shall mail, by prepaid registered or certified mail, a copy of said statement addressed to the nearest state livestock inspector~~."

Section 25. Section 76-16-316, MCA, is amended to read:

"**76-16-316. Sale of trespassing livestock.** (1) Upon receipt of the statement referred to in 76-16-315, the sheriff ~~or constable~~ shall proceed to advertise and sell at public auction the livestock ~~so~~ taken up.

(2) ~~Such~~ The livestock ~~shall~~ must be sold on 5 days' notice posted at the courthouse of each county in which any portion of the district lies and ~~posted~~ in ~~three public places~~ a newspaper of general circulation in ~~such~~ the county~~, one of which shall be within the district~~. ~~Such~~ The sheriff may require from the state district a ~~good and~~ sufficient bond, conditioned:

(a) that the state district has used reasonable diligence to discover the owner of ~~such~~ the stock and to notify ~~him~~ the owner in the premises;

(b) ~~and~~ that all requirements of law on the part of the state district to be performed in the premises have been performed; and

(c) ~~indemnifying~~ that the sheriff is indemnified against all liability for the sale of ~~said~~ the livestock except as to ~~his~~ the sheriff's own failure to perform the things required ~~of him~~ by law."

Section 26. Section 76-16-319, MCA, is amended to read:

"**76-16-319. No liability for official acts.** An officer, the ~~department~~ commission, an employee of an officer or the ~~department~~ commission, or an employee of any county or of any state district is not liable for any act performed in good faith in discharging official duties under this chapter. All acts are presumed to have been in good faith and in conformity with this chapter."

Section 27. Section 76-16-323, MCA, is amended to read:

"**76-16-323. District finances.** A state district may:

(1) fix and determine the amount of grazing fees to be imposed on members or nonmembers for the purpose of paying leases and operating expenses and fix and determine the amount of assessments to be made on members on ~~an animal unit~~ a grazing preference basis for the purpose of acquiring lands by purchase or for the purpose of constructing improvements in the state district;

(2) set up and maintain a reasonable reserve fund;

(3) borrow money and if necessary mortgage the physical assets of a state district to provide for operation and development, provided that at least 80% of the permittee members of the state district consent in writing to the borrowing and the borrowing has been approved by the ~~department~~ commission.

This subsection does not confer power upon a state district to mortgage the property of the individual members of the district."

Section 28. Section 76-16-325, MCA, is amended to read:

"**76-16-325. Compliance with ~~department~~ commission orders required.** (1) If a state district or the directors of a state district fail to comply with an order of the ~~department~~ commission, the ~~department~~ commission may order a hearing on the order within the district or county and cite the directors of the district to appear before the ~~department~~ commission.

(2) If upon the hearing it appears that the directors refuse to perform the duties of their office as provided in this part and as set forth in the articles of incorporation and the bylaws of the association or refuse to comply with a lawful order of the ~~department~~ commission, the directors may be summarily removed from office by the ~~department~~ commission, and the district shall elect new officers. During the period until the election, the ~~department~~ commission may operate and manage the affairs of the state district.

(3) The expense of operating and managing the affairs of a noncomplying state district must be paid by the noncomplying state district before it may be reinstated."

Section 29. Section 76-16-403, MCA, is amended to read:

"**76-16-403. Procedure if reduction in grazing privileges necessary.** (1) If ~~reductions~~ a reduction in grazing privileges ~~become~~ becomes necessary, operators with temporary permits will be reduced ~~first~~ on a proportionate basis prior to any reduction to any holder of grazing preference. ~~When the extent of reduction of privileges exceeds that of temporary permits, then the rights of operators with both dependent commensurate property and commensurate property shall be reduced together on a proportionate basis.~~

(2) Reductions of grazing preference for individual members that result from actions beyond the control of the state district or the board of directors of a cooperative state district or as a result of actions or of the failure to take appropriate actions by the holder of the preference in question, do not constitute a general reduction in grazing preference and the state district may not be compelled to require proportionate reductions in grazing preference by the membership of the state district."

Section 30. Section 76-16-406, MCA, is amended to read:

"**76-16-406. Transfer of preferences.** (1) Upon application by a permittee, the state district with the approval of the ~~department~~ commission may allow a preference based on ownership or control of dependent commensurate or commensurate property to be transferred to other property of sufficient commensurability~~; however~~. However, in any transfer of preference from dependent commensurate or commensurate property controlled but not owned by the applicant, the applicant must have had control and use of the dependent commensurate or commensurate property and the preference appurtenant ~~thereto~~ to the property for 5 consecutive years and must have established and maintained the livestock operation upon which the dependency was established by use or priority immediately prior to the application for transfer.

(2) In addition, the transfer may not interfere with the stability of livestock operations or with proper range management and may not affect adversely the established local economy. A transfer may not be allowed without the written consent of the owner or owners of the dependent commensurate or commensurate property from which the transfer is to be made and the owner or owners of any encumbrances on the property. A transfer is not effective until approved by the ~~department~~ commission.

(3) All expenses involved under the application ~~shall~~ must be borne by the applicant."

Section 31. Section 76-16-413, MCA, is amended to read:

"**76-16-413. Effect of revocation.** (1) When a preference is revoked, it is detached from the dependent commensurate or commensurate property to which it was formerly appurtenant and it immediately shifts to the state district. A revocation includes all rights, privileges, and authorities associated with a preference.

(2) The state district may then allocate it to either dependent commensurate or commensurate property in the manner provided by its bylaws."

Section 32. Section 76-16-414, MCA, is amended to read:

"**76-16-414. Equalization of district assets.** (1) Whenever a state district ~~shall possess~~ possesses reserves, the values of which are greater than its liabilities, and the state district ~~shall determine~~ determines that a part of ~~such~~ the reserves is in excess of its reasonable needs to operate the district, ~~such~~ the state district may refund to the permittee members their proportionate share of ~~such~~ the

reserves as determined at the last annual accounting.

(2) Whenever a state district ~~shall possess~~ possesses reserves and physical assets, the values of which are greater than its liabilities, and a permittee member ~~shall lose his~~ loses a grazing preference or any portion of a grazing preference, ~~he shall be~~ the permittee member is entitled to receive ~~his~~ a proportionate share of the value of ~~such~~ the excess from the state district, as determined by the annual accounting of the state district. Valuation must be as prescribed by the bylaws of the state district. The state district may set off the amount of any claim it may have against ~~such~~ a former member.

(3) Whenever a new member ~~shall receive~~ receives a grazing preference, ~~he~~ the new member shall, as a condition of receiving ~~such~~ the preference, pay to the state district the value of the equitable interest in the physical assets and reserve fund ~~which~~ that accrues to ~~him~~ the new member by virtue of ~~such~~ membership. ~~Such~~ The value ~~shall~~ must be determined at the time of receiving ~~such~~ a preference, as prescribed by the bylaws of the state district, and upon the basis of the determination of value of ~~such~~ physical assets and reserves made at the last annual accounting."

NEW SECTION. **Section 33. Creation of Montana grass conservation commission -- membership -- meetings -- compensation.** (1) There is a Montana grass conservation commission. The commission must be composed of five members appointed by the governor to serve staggered 3-year terms. Beginning on January 1, 2000, one member shall serve a 1-year term and two members shall serve 2-year terms, with assignment of terms based on a random drawing.

(2) (a) The governor, after giving full consideration to representation by both large and small operators, shall appoint:

(i) two members who are either officers of or who serve on the board of directors of a state grazing district;

(ii) two members who hold active preference rights within a state grazing district; and

(iii) one member of the public who possesses a general understanding of the livestock industry and the proper use of rangelands within state grazing districts for the purpose of livestock production.

(b) Ex officio members may be appointed by the commission as needed.

(3) Members may not be appointed for more than three consecutive terms. The commission shall annually elect from among its members a presiding officer and a vice presiding officer. The presiding officer shall preside over all meetings of the commission, except that the vice presiding officer shall

assume the duties of the presiding officer in the absence of the presiding officer.

(4) The commission shall meet annually at the main offices of the department in Helena. The commission may hold other meetings at times and places as necessary upon the call of the presiding officer or upon the request of a majority of commission members, and upon at least 14 days' written notice to the commission members of the time and place of the meeting. A majority of commission members constitutes a quorum for the transaction of business. The commission shall keep accurate records of all business that is considered, and the presiding officer shall sign all orders, minutes, and other documents of the commission.

(5) Commission members may receive no compensation for their services, but members are entitled to compensation for actual expenses incurred in carrying out their duties, including travel and per diem.

(6) The commission is allocated to the department for administrative purposes only as provided in 2-15-121. The commission may hire its own personnel, and 2-15-122(2)(d) does not apply. The secretary must be employed at the discretion of the commission.

NEW SECTION. **Section 34. Powers of commission.** The commission has all the powers enumerated in this chapter and any other powers necessary or incidental to carrying out the full purpose and intent of this chapter, including but not limited to:

(1) conducting hearings on issues brought before the commission and conducting investigations into matters affecting the commission or the operation of state grazing districts, including appeals of decisions made by the board of directors of an individual state grazing district or other actions taken in accordance with this chapter;

(2) administratively promoting and fostering an atmosphere of cooperation and mutual trust between the federal bureau of land management, the United States forest service, the department, and cooperative state grazing districts and upholding the terms and conditions of any memorandum of understanding between those entities with regard to provisions noted in the Federal Land Policy and Management Act, the Public Rangelands Improvement Act, the Taylor Grazing Act, and this chapter; and

(3) prescribing methodologies to be used for the reallocation of grazing preference within cooperative state grazing districts that, for whatever reason, no longer have access to historical preference records.

NEW SECTION. **Section 35. Codification instruction.** [Sections 33 and 34] are intended to be codified as an integral part of Title 76, chapter 16, and the provisions of Title 76, chapter 16, apply to [sections 33 and 34].

NEW SECTION. **Section 36. Contingent voidness.** If Constitutional Initiative No. 75, enacting Article VIII, section 17, of the Montana constitution, is not declared invalid, then the change in fee from 15 cents per animal unit to 5 cents per animal unit month of preference in section 2(1) of this act is void.

- END -

FISCAL NOTE

Bill #: HB0444

Title: Re-establish Montana grass commission through conservation act

Primary Sponsor: Bill Thomas

Rep. Bill Thomas 2-6-99
Sponsor signature Date

Status: As introduced

Dave Lewis 2-6-99
Dave Lewis, Budget Director Date

Fiscal Summary

	FY2000 Difference	FY2001 Difference
Expenditures:	0	0
Revenue:		
State Special Revenue	0	0
Net Impact on General Fund Balance:	**0**	**0**

Yes	No		Yes	No	
	X	Significant Local Gov. Impact		X	Technical Concerns
X		Included in the Executive Budget		X	Significant Long-Term Impacts

Fiscal Analysis

ASSUMPTIONS:

1. The commission will be appointed administratively attached to the DNRC and will adopt and review policies to administer the Grass Conservation Act.
2. A contract manager will be employed to manage the program and carry out the tasks assigned by the commission.
3. The Executive Budget recommendation provides funding for the contract manager and for the workload required by this legislation.
4. The fee structure is being changed from an allowable cap of .15 cents per animal unit (AU) to .05 cents per animal unit month (AUM) with no revenue impact intended in the 2001 biennium.

HB 444

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By **CHAIRMAN JOE BARNETT**, on February 11, 1999 at 3:00 P.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Joe Barnett, Chairman (R)
Rep. John L. Holden, Vice Chairman (R)
Rep. Ralph Lenhart, Vice Chairman (D)
Rep. Darrel Adams (R)
Rep. Paul Clark (D)
Rep. Rick Dale (R)
Rep. Bill Eggers (D)
Rep. Mary Anne Guggenheim (D)
Rep. Donald L. Hedges (R)
Rep. Verdell Jackson (R)
Rep. Rick Jore (R)
Rep. Monica Lindeen (D)
Rep. Gay Ann Masolo (R)
Rep. Brennan Ryan (D)
Rep. Frank Smith (D)
Rep. Bob Story (R)
Rep. Bill Thomas (R)
Rep. Cliff Trexler (R)

Members Excused: Rep. Kathleen Galvin-Halcro (D)
Rep. Sam Rose (R)

Members Absent: None.

Staff Present: Joyce Bankhead, Committee Secretary
Todd Everts, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 444, HB 453, HB 463, HB 464
HB 465, HB 466, Posted 2/5/99
HB 571 Posted 2/9/9

Executive Action: HB 440 DO PASS
HB 444 DO PASS as amended
HR 2 DO PASS
HB 571 DO PASS

HEARING ON COMMITTEE RESOLUTION

Chr. Barnett explained the resolution. **EXHIBIT(agh34a01)**

Informational Testimony:
Mike Murphy, MT Water Resource Assn.
{Tape : 1; Side : A; Approx. Time Counter : 0 - 3.9}

Questions from Committee Members and Responses:
Reps. Jore and Clark to Murphy. Todd Everts provided information. Reps. Clark, Story and Barnett discuss.
{Tape : 1; Side : A; Approx. Time Counter : 3.9 - 8.5}

Motion/Vote: REP. SMITH moved **COMM. RESOLUTION to be drafted. Motion carried 16-0.**
{Tape : 1; Side : A; Approx. Time Counter : 8.5 - 9}

HEARING ON HB 453

Opening Statement by Sponsor:
Rep. Gail Gutsche, HD 66.
{Tape : 1; Side : A; Approx. Time Counter : 9 - 18.7}

Proponents' Testimony:
Senator Jon Tester, farmer in Big Sandy
{Tape : 1; Side : A; Approx. Time Counter : 18.7 - 21.3}

Vicki Watson, Professor of Environmental Studies UofMT.
EXHIBIT(agh34a02)
{Tape : 1; Side : A; Approx. Time Counter : 21.3 - 32}

Proponents' Testimony:
John Metropoulos, Flathead Joint Board of Control
{Tape : 2; Side : B; Approx. Time Counter : 12.2 - 15.3}

Mike Murphy, MT Water Resource Assn.
{Tape : 2; Side : B; Approx. Time Counter : 15.3 - 16.3}

Opponents' Testimony:
NONE
{Tape : 2; Side : B; Approx. Time Counter : 16.3 - 16.5}

Questions from Committee Members and Responses:
Reps. Lenhart and Smith to Rep. McCann
{Tape : 2; Side : B; Approx. Time Counter : 16.5 - 20.1}

Closing by the Sponsor:
Rep. McCann closed the Hearing on HB 571.
{Tape : 2; Side : B; Approx. Time Counter : 20.1 - 21}

HEARING ON HB 444

Opening Statement by Sponsor:
Rep. Bill Thomas, HD 93. EXHIBIT(agh34a11)
{Tape : 2; Side : B; Approx. Time Counter : 21 - 27.2}

Proponents' Testimony:
John Mundinger, MT Stockgrowers Assn., MT Public Land Council, and MT Assn. of State Grazing Districts
also for Ron DeYong, MT Farmers Union
also for Red Butte Grazing District
{Tape : 2; Side : B; Approx. Time Counter : 27.2 - 29}
{Tape : 3; Side : A; Approx. Time Counter : 0 - 11}

John Youngberg, Farm Bureau
{Tape : 3; Side : A; Approx. Time Counter : 11 - 11.4}

Jim Raths, Pres. MT Assn. State Grazing Districts
{Tape : 3; Side : A; Approx. Time Counter : 11.4 - 13.8}

Steve Schmitz, DNRC **EXHIBIT(agh34a12)**
{Tape : 3; Side : A; Approx. Time Counter : 13.8 - 17.6}

Mike Murphy, Mt Water Resource District
{Tape : 3; Side : A; Approx. Time Counter : 17.6 - 18}

Opponents' Testimony:
NONE
{Tape : 3; Side : A; Approx. Time Counter : 18 - 18.4}

Questions from Committee Members and Responses:
Rep. Jore to Raths
{Tape : 3; Side : A; Approx. Time Counter : 18.4 - 25.3}
Rep. Hedges to Sponsor and referred to Raths
{Tape : 3; Side : A; Approx. Time Counter : 25.3 - 29.5}

Closing by the Sponsor:
Rep. Thomas closed the Hearing on HB 444.
{Tape : 3; Side : A; Approx. Time Counter : 29.5 - 30.7}
{Tape : 3; Side : B; Approx. Time Counter : 0 - 0.7}

HEARING ON HB 464, 465, 466

Opening Statement by Sponsor:
Rep. Paul Clark, HD 72. EXHIBIT(agh34a13)
{Tape : 3; Side : B; Approx. Time Counter : 0.7 - 12.8}

Proponents' Testimony:
Stan Frasier, Pres. MT Wildlife Fed.
{Tape : 3; Side : B; Approx. Time Counter : 12.8 - 16.9}

John Kober, MACOW and MT Wildlife Federation
{Tape : 3; Side : B; Approx. Time Counter : 16.9 - 18.2}

Stan Rauch, MT Bowhunters Assn. **EXHIBIT(agh34a14)**
{Tape : 3; Side : B; Approx. Time Counter : 18.2 - 21.9}

Harry LaFriniere, Ravalli County Fish & Wildlife Assn.
EXHIBIT(agh34a15)
{Tape : 3; Side : B; Approx. Time Counter : 21.9 - 24.2}

Katrina Scheuerman, MT Audubon
{Tape : 3; Side : B; Approx. Time Counter : 24.2 - 25}

EXECUTIVE ACTION ON HB 571

Motion: **REP. MASOLO** moved that **HB 571 DO PASS.**

Discussion: Rep. Masolo, Story, Dale. Todd Everts provided information. **Vote**: Motion **carried 19-0.**
{Tape : 4; Side : B; Approx. Time Counter : 18.6 - 22.2}

EXECUTIVE ACTION ON HR 2

Motion/Vote: **REP. HEDGES** moved that **HR 2 DO PASS. Motion carried 19-0.**
{Tape : 4; Side : B; Approx. Time Counter : 22.2 - 23.3}

EXECUTIVE ACTION ON HB 444

Motion: **REP. THOMAS** moved that **HB 444 DO PASS.**
Motion/Vote: **REP. HOLDEN** moved that **HB 444 BE AMENDED. Motion carried 19-0.**
{Tape : 4; Side : B; Approx. Time Counter : 23.3 - 25.5}
Motion/Vote: **REP. HEDGES** moved that **HB 444 DO PASS AS AMENDED.**
Motion: **REP. HOLDEN** moved that **HB 444 BE AMENDED.**

Discussion: Todd Everts explained amendment.
Vote: Motion **carried 19-0.**
{Tape : 4; Side : B; Approx. Time Counter : 25.5 - 27.2}
Motion: **REP. HOLDEN** moved that **HB 444 DO PASS AS AMENDED.**

Discussion: Reps. Jore, Story, and Thomas.
{Tape : 4; Side : B; Approx. Time Counter : 27.2 - 28.9}
Reps. Mascolo, Smith, Jore, Thomas, and Story. Todd Everts answered question on powers. Rep. Holden.
Vote: Motion **carried 17-2 with Adams and Jore voting no.**
{Tape : 5; Side : A; Approx. Time Counter : 0 - 6.3}

EXECUTIVE ACTION ON HB 345

Todd Everts explained the Grey Bill on HB 345. **EXHIBIT(agh34a19)**
{Tape : 5; Side : A; Approx. Time Counter : 6.3 - 8.5}

EXHIBIT 11
DATE 2-11-99
HB HB 444

DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

AMENDMENTS
TO HB 444 (INTRODUCED BILL)

1. Page 13, line 27.
Following: "in question, do not"
Strike: "constitute"
Insert: "require"

2. Page 16, line 13.
Following: "The commission"
Strike: "may"
Insert: "must, if it determines that personnel services are required,

3. Page 17, line 9.
Insert: "NEW SECTION. **Section 37. Effective Date**. [This act] is effective on July 1, 1999."

EXHIBIT 12
DATE 2-11-99
HB HB 444

DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

TESTIMONY IN SUPPORT OF HB444

OVERVIEW:
The Department has been involved in discussions with the Montana Association of State Grazing Districts for sometime regarding grazing district issues and concerns about the administration of grazing districts in Montana. Two years ago, the Association asked the legislature to create an interim Grass Conservation Advisory Committee made up of grazing district members and employees to study these issues and concerns, and to make recommendations for solutions. The Association's bill before you today, revising the Grass Conservation Act, is the result of this effort.

HISTORY:
Grazing districts are nonprofit cooperative organizations created under the Grass Conservation Act. The purpose of grazing districts is to ensure sound range management and forage use through cooperative management of diverse land ownership. There are 26 active grazing districts in Montana, most of which were created in the 1940s. Districts functioned for many years under the guidance, direction, and supervision of the Montana Grass Conservation Commission. Executive reorganization in 1972 transferred these functions to the Board of Natural Resources and Conservation and the Department. In 1995, reorganization of natural resource agencies eliminated the Board of Natural Resources and Conservation leaving the Department with the role held by the Grass Conservation Commission many years before.

Grazing district operations have changed over time as well. The greatest change has been a transition away from use of common pastures by several district members to use of individual allotments. Therefore, many grazing district functions, including adjustments of grazing privileges, are difficult to implement under current law. In addition, government land management agencies have assumed a greater role in the management of grazing and other uses on public lands within districts.

EXHIBIT 12
DATE 2-11-99
HB

ADVISORY COMMITTEE:
At the request of the Montana Association of State Grazing Districts, the 1997 Legislature created the Grass Conservation Advisory Committee to evaluate grazing district operations, identify needed services, and recommend necessary statutory changes. The Advisory Committee, comprised of grazing district members, officials, and employees has worked on this evaluation and recommendation for over a year. The Committee's recommendations were submitted in a report to the Legislature and the Department last fall. HB 444 would implement the Committee's recommendations.

HB 444 IMPLICATIONS TO DNRC:
HB444 creates a permanent Montana Grass Conservation Commission to assume the duties and responsibilities currently assigned to the Department in statute. The Commission would be attached to the Department for administrative purposes only. The Department would provide administrative support only. The Commission would be responsible for all policy development and implementation under the provisions of HB 444.

Currently the Department receives approximately $12,000 per year from grazing fees to fund its grazing district responsibilities. These fees would be made available to the Commission. In addition, the Natural Resources Appropriation Subcommittee has approved $45,000 per year in General Funds for the grazing district program. There are no new FTE's associated with the general fund appropriation or HB 444.

AMENDMENTS:
The Department offers three amendments which clarify the intent of proposed language and establish an effective date of July 1, 1999. These amendments have been discussed with the Sponsor. (HANDOUT)

RECOMMENDATION:
The Department agrees that grazing districts need to make changes since district operations sometimes differ from the district statute. We respect the Association's proactive approach to have grazing district members assess and recommend needed changes. As such, the Department supports HB444.

HOUSE OF REPRESENTATIVE
ROLL CALL

Ag COMMITTEE

DATE 2-11-99

NAME	PRESENT	ABSENT	EXCUSED
Joe Barnett, Chr.	X		
John Holden, V.Ch.	X		
Ralph Lenhart, VC	X		
Darrell Adams	X		
Paul Clark	X		
Rick Dale	X		
Bill Eggers	X		
Kathleen Galvin-Hakto			X
Mary Anne Guggenheim	X		
Don Hodges	X		
Verdell Jackson	X (Proxy 3:30)		
Rick Jore	X		
Monica Lindeen	3:30 X		
Gay Ann Masolo	X		
Sam Rose			X
Brennan Ryan	X		
Frank Smith	X		
Bob Story	X P		
Bill Thomas	X		
Cliff Trexler	X		
Todd Everts	X		
Joyce Bankhead	X		

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Ag [redacted] COMMITTEE

DATE 2-11-99 BILL NO. HB44F NUMBER

MOTION: Rep Thomas moved DO Pass

no vote

NAME	AYE	NO
John Holden		
Ralph Lenhart		
Darrell Adams		
Paul Clark		
Rick Dale		
Bill Eggers		
Kathleen Galvin-Halcro		
Mary Anne Guggenheim		
Don Hedges		
Verdell Jackson		
Rick Jore		
Monica Lindeen		
Gay Ann Masolo		
Sam Rose		
Brennan Ryan		
Frank Smith		
Bob Story		
Bill Thomas		
Cliff Trexler		
Joe Barnett, Chr.		

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Ag [redacted] COMMITTEE

DATE 2-11-99 BILL NO. HB444 NUMBER

MOTION: Rep. Holden moved amendments (DNRC ~~& Thomas~~)

19-0

NAME	AYE	NO
John Holden	X	
Ralph Lenhart	X	
Darrell Adams	X	
Paul Clark	X	
Rick Dale	X	
Bill Eggers	—	
Kathleen Galvin-Halcro	X	
Mary Anne Guggenheim	X	
Don Hedges	X	
Verdell Jackson	X	
Rick Jore	X	
Monica Lindeen	X	
Gay Ann Masolo	X	
Sam Rose	X	
Brennan Ryan	X	
Frank Smith	X	
Bob Story	X	
Bill Thomas	X	
Cliff Trexler	X	
Joe Barnett, Chr.	X	
	19	0

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Ag COMMITTEE

DATE 2-11-99 BILL NO. HB 444 NUMBER

MOTION: Rep Hedges DO PASS as amended

(No vote)

NAME	AYE	NO
John Holden		
Ralph Lenhart		
Darrell Adams		
Paul Clark		
Rick Dale		
Bill Eggers		
Kathleen Galvin-Halcro		
Mary Anne Guggenheim		
Don Hedges		
Verdell Jackson		
Rick Jore		
Monica Lindeen		
Gay Ann Masolo		
Sam Rose		
Brennan Ryan		
Frank Smith		
Bob Story		
Bill Thomas		
Cliff Trexler		
Joe Barnett, Chr.		

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Ag COMMITTEE

DATE 2-11-99 BILL NO. HB 444 NUMBER

MOTION: Rep. Holden moves amended

19-0

NAME	AYE	NO
John Holden	X	
Ralph Lenhart	X	
Darrell Adams	X	
Paul Clark	X	
Rick Dale	X	
Bill Eggers	—	—
Kathleen Galvin-Halcro	X	
Mary Anne Guggenheim	X	
Don Hedges	X	
Verdell Jackson	X	
Rick Jore	X	
Monica Lindeen	X	
Gay Ann Masolo	X	
Sam Rose	X	
Brennan Ryan	X	
Frank Smith	X	
Bob Story	X	
Bill Thomas	X	
Cliff Trexler	X	
Joe Barnett, Chr.	X	
	19	0

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Ag [redacted] COMMITTEE

DATE 2-11-99 BILL NO. HB447 NUMBER

MOTION: Rep Holden moved DO PASS on amended Bill

17-2

NAME	AYE	NO
John Holden	X	
Ralph Lenhart	X	
Darrell Adams		X
Paul Clark	X	
Rick Dale	X	
Bill Eggers	—	—
Kathleen Galvin-Halcro	X	
Mary Anne Guggenheim	X	
Don Hedges	X	
Verdell Jackson	X	
Rick Jore		X
Monica Lindeen	X	
Gay Ann Masolo	X	
Sam Rose	X	
Brennan Ryan	X	
Frank Smith	X	
Bob Story	X	
Bill Thomas	X	
Cliff Trexler	X	
Joe Barnett, Chr.	X	

COMMITTEE ABSENTEE BALLOT

Date: 2-11-99

I hereby authorize Rep. Lenhart

to cast my vote(s) as follows:

HB 571 Yes
HR 2 yes
HB444 yes
HB345 ~~Yes~~ No to table
HB 440 yes.

Representative Kathleen Galvin-Halcro

COMMITTEE ABSENTEE BALLOT

Date: 2/11/99

I hereby authorize Rep. Lenhart

to cast my vote(s) as follows:

HB 571	Yes
HR 2	Yes
HB 444	Yes
HB 345	~~Yes~~ NO TO Table.
HB 440	Yes.

Representative [signature]

COMMITTEE ABSENTEE BALLOT

Date: 2-11-99

I hereby authorize Rep. Lenhart

to cast my vote(s) as follows:

HB571 Yes
HR 2 Yes
HB 444 Yes
HB 345 ~~Yes~~ No To Table
HB 440 Yes

Representative Guggenberger

COMMITTEE ABSENTEE BALLOT

Date: 2-11-99

I hereby authorize Rep. Ralph Jenkins

to cast my vote(s) as follows:

HB 571 Yes
HR 2 Yes
HB 444 Yes
HB 345 ~~Yes~~ No To Table
HB 440 NO

Representative Homer A. Linden

HB - 345 - yes - Ravey
HB 393 - yes Yowkin
HB-440 - Yes Brainard
HB-444 - yes Thomas
HB-453 - NO Gatche
HB-463 - NO Clark
HB-464 - NO Clark
HB-571 - yes McCann
HB-465 - NO Clark
HB-466 - NO Clark
HR-2 - Yes Hurdle

COMMITTEE ABSENTEE BALLOT

Date: 2-11-99

I hereby authorize Rep. _____

to cast my vote(s) as follows:

Representative Cliff Trigg

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 2-11-99

BILL NO. HB 444 SPONSOR(S) Rep. Thomas

TYPE

PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
(P) O I	Jim Raths	Box 74 Lavina Mt	Montana Assn State Grazing Districts
(P) O I	John Mundinger	Helena	MSGA
(P) O I	Ronde Long	Kalispell	Mt. Farmers Union
(P) O I	John Youngberg		MT Farm Bureau
(P) O I	Steve Schmitz	Helena	DNRC
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			
P O I			

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE STANDING COMMITTEE REPORT

Mr. Speaker:

We, your committee on **Agriculture** report that **House Bill 444** (first reading copy -- white) **do pass as amended.**

Signed: Joe Barnett
Representative Joe Barnett, Chair

And, that such amendments read:

1. Title, line 15.
Strike: "AND"

2. Title, line 19.
Following: "MCA"
Insert: "; AND PROVIDING AN EFFECTIVE DATE"

3. Page 10, line 21 through line 29.
Strike: "The" on line 21 through "livestock." on line 29
Insert: "The state district taking ~~up such~~ possession of trespassing livestock shall, within 72 hours after taking possession ~~thereof~~, notify ~~said~~ the owner, owners, or person in charge ~~thereof~~ of the livestock by a notice in writing describing ~~said~~ the livestock by number of animals and brands ~~thereon~~ on the livestock, if any, the amount of damages claimed to date, and the charge per animal unit per day for caring for and feeding the ~~same~~ livestock thereafter~~, such charges~~. Charges may not ~~to~~ exceed ~~50 cents~~ $2 per animal unit per day~~, and describing by general description~~. The notice must generally describe the location ~~of the premises upon which said~~ where the livestock is held and ~~requiring such~~ require the owner or owners, within 10 days after receiving ~~said~~ the notice, to take ~~said~~ the livestock away after making full payment of all damages and costs ~~of said livestock~~."

Committee Vote:
Yes 17, No 2.

351342SC.ham

4. Page 13, line 27.
Strike: "constitute"
Insert: "require"

5. Page 16, line 13.
Strike: "may"
Insert: "shall, if it determines that personnel services are required,"

6. Page 17.
Following: line 8
Insert: "NEW SECTION. **Section 37. Effective date.** [This act] is effective on July 1, 1999."

- END -

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN REINY JABS**, on March 3, 1999 at 3:02 P.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Reiny Jabs, Chairman (R)
Sen. Walter McNutt, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Gerry Devlin (R)
Sen. Pete Ekegren (R)
Sen. Ric Holden (R)
Sen. Greg Jergeson (D)
Sen. Ken Mesaros (R)
Sen. Linda Nelson (D)
Sen. Jon Tester (D)

Members Excused: Sen. Mike Halligan (D)

Members Absent: None.

Staff Present: Carol Masolo, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 130, 2/23/99, HB 391, 2/22/99, HB 444, 2/23/99
Executive Action: HB 391, HB 221

HEARING ON HB 130

Sponsor: **REPRESENTATIVE ROBERT STORY, HD 24, Park City**

Proponents: **Ralph Peck, Montana Dept. of Agriculture**
Pam Langley, Montana Agriculture Business Assn.

of Agriculture's position is whatever the Extension Service between the counties and the main office wanted to set up was fine with us, as long as they could guarantee to us the $15.00 that originally came out of that county would always get back to that county for this purpose.

Closing by Sponsor:

Rep. Hedges In terms of the electronic listing part, I envision that as a computer download to the dealers' computers.

{Tape : 1; Side : A; Approx. Time Counter : 3.41}

HEARING ON HB 444

Sponsor: **REPRESENTATIVE BILL THOMAS, HD 93, HOBSON**

Proponents: **John Mundinger, Montana Stock Growers**
Jim Raths, Montana Assn. State Grazing Districts
John Schultz, Montana Assn. State Grazing Districts
Scott Kulbeck, Montana Farm Bureau
Marla Jean Murray, Montana Cattlewomen
Jim Peterson, Montana Stock Growers Assn.

Opponents: **NONE**

Opening Statement by Sponsor:

REP. BILL THOMAS, HD 93, HB 444 involves cattle, grass and history. To better understand this bill, we need to know the trails we took to get where we are today. In the early days of development of the west, it became apparent in order to protect the native grazing lands so vital to the livestock industry, some plan of organized utilization was needed. Range wars, cattle barons, sheep men's rights, and guns were and shall always remain a treasured part of Montana's history. Civilization and organization prevailed, and in 1928 the first grazing association was formed. This was a forerunner of the Federal Taylor Grazing Act in 1934, which provided for the creation of grazing districts on one hundred forty two million acres of public land.

The Taylor Grazing Act was limited for use in Montana because of the checkerboard pattern of federal, state, county and private lands. Grazing districts needed some measure of control over these checkered lands for livestock operations to be successful. Hence the formation of the Montana Grass Conservation Act of 1939. This law established the purpose, power and procedures for operating 26 grazing districts on lands of such diverse

ownership. Today there are 28 grazing districts in seventeen counties with approximately one thousand rancher members. They graze approximately 250,000 head of livestock on ten million acres of land. The little map I passed out shows the fairly significant part of Montana that grazing districts affect and that grazing districts cover to the benefit of the people and the land both. SEE **EXHIBIT(ags48a03)**. The original 1939 Montana Grass Conservation Act is still in effect today. However, there have not been needed amendments to the original act. The executive reorganization in 1973 and again in 1995 had pronounced affects on the operations of Montana grazing districts which today are under the direction of Director of a Division of Natural Resources and Conservation.

HB 444 is the result of **SB 326** from the 1997 Legislature which called for a study and recommendations concerning the grazing districts. This bill is about re-establishing the Montana Grass Commission, it is about a friendly separation between DNRC and the management of grazing districts. It is about a more user friendly government.

Proponents' Testimony:

John Mundinger, Montana Stock Growers Assn. The recommendation to re-establish the Grass Commission is the product of an interim study that was authorized by **SB 326** during the last session. Often interim studies, because they give you the time for more deliberative look at a particular issue, result in some constructive legislation. That circumstance also applies in the case of **HB 444**. There's been a group of people working on this issue for two years, studying the concerns that **Rep. Thomas** mentioned. The study commission concluded there is an ongoing need for all the state grazing districts in terms of maintaining an equitable allocation of rangeland in these areas with mixed ownership and also an equitable allocation of the responsibility to conserve that rangeland.

Through the reorganization in state government, one of the things lost is an oversight and coordination function at a higher level with the individual grazing districts that would ensure some consistency in the way those grazing districts operate and the coordination between the grazing districts and the state and federal agencies. The primary purpose for re-establishing the grass commission is to provide that oversight and coordination role.

I would point out **HB 444** is simpler than the 16 or 17 pages it took to print it. The heart of the bill is on pages 15, 16, 17, sections 33 and 34 that authorize the re-establishment of the

Grass Commission and define the role and responsibilities of the Commission. The remainder of the bill is clean up and updating of language in some of the existing sections in the Grass Conservation, given the fact that the Commission will be established by these latter sections. I will bring to your attention that we had a couple of people who worked on this advisory commission, Jim Raths and John Schultz.

Jim Raths, Montana Assoc. of State Grazing Districts, Chairman of the Study Commission of SB 326, The function of the grazing districts is coordination with federal and state agencies to effectively manage the range to the betterment of the range, and represent permittees in the use of that resource. That mission has not changed at all. What was valid in the '30s is still our mission today. I think we have a tool we can use to take us into the future. It's up to our membership to use it wisely. He listed the names of the members of the Study Commission.

John Schultz, Montana Assoc. of State Grazing Districts, One of the most important things is it will be a stronger unit, able to confront adverse political views aimed at (sneeze) multiple use concept of federal land. I think this is one thing we have to strive for. A lot of these groups are trying divide up these federal lands and create wilderness areas.

Scott Kulbeck, Montana Farm Bureau Federation, Montana Farmers Union, support **HB 444.**

Steve Schmitz, Department of Natural Resources and Conservation, read written testimony. **SEE EXHIBIT(ags48a04).**

Marla Jean Murray, Montana Cattlewomen would like to go on record as supporting this bill.

Jim Peterson, Montana Stock Growers Assoc., I want to point out this commission met eight different times over the last two years and their report was presented to the membership of the Montana Association of Grazing Districts, the Montana Public Lands Council and the Montana Stock Growers Assoc. That membership reviewed the commission's report and that's what you have before you. The point being that a lot of folks looked at this and concurred with this report.

{Tape : 1; Side : B; Approx. Time Counter : 3.57}

Opponents' Testimony:

Questions from Committee Members and Responses:

SENATOR JERGESON How can you lower the assessment from fifteen cents per animal unit to five cents and not have a revenue impact?

Steve Schmitz The statute changes the units of the assessment. The maximum assessment allowed under law now is fifteen cents per animal unit which is basically a grazing season. The change would be to a maximum of five cents per animal unit month. The conversion is roughly a factor of eight, so it provides a higher fee authority that the commission could levy. The legislature would have to appropriate those funds to DNRC through the process. Currently the $12,000 figure I gave is the level of fee authority that would be allowed.

SENATOR JERGESON Has this program had General Fund support previously?

Steve Schmitz Not in my ten years with the Dept. We have operated under the grazing district fees and, in fact, had a case where auditors suggested we stay within the revenue generated by the fees.

SENATOR BECK If we were to take out the contingency voidance clause, which is not necessary now, that would be classified as an amendment and would still have to go back to the House?

Doug Sternberg It would, it's a technical change. I do have an amendment prepared that would strike Section 36. **SEE EXHIBIT(ags48a05).**

SENATOR BECK If we left it in, it could go directly to the Governor.

Doug Sternberg I've been directed by Mr. Petesch to try to clean up voidness things that were built into a lot of these departments, for codification purposes and clarification when we get compiling all this. I've been directed to make it as clean as possible.

CHAIRMEN JABS You've turned the administration part over to this Commission. Does the Dept. have the final say, do they have to approve everything done?

Steve Schmitz If **HB 444** passes, the Commission would be established and would have full policy authority within the bounds of the statute. The Director, Governor, Administrative link would not have policy oversight. We would be there similar to what is set up for the Water Rights Compact Commission to provide budgetary functions.

Closing by Sponsor:

Rep. Thomas Folks I worked with in representing the livestock industry and also the DNRC have all been most helpful and its really been a pleasure to do this. There's one man who is not here today who was my original mentor in this, Jason Campbell. He's gone on from Montana to Washington, D.C. and he's with the National Livestock Association there. **SENATOR DEVLIN** has agreed to carry this bill to the Floor of the Senate.

{Tape : 1; Side : B; Approx. Time Counter : 4.02}

EXECUTIVE ACTION ON HB 391

Motion/Vote: SEN. BECK moved that **HB 391 BE CONCURRED IN. Motion carried 8-0.**

EXECUTIVE ACTION ON HB 130

SENATOR BECK This one has contingency voidness language in it too. Would that go back to the effective date then?

Doug Sternberg The effective date on this one was always contingent on approval by the electorate. In cleaning up the language on page 2, I took the liberty of putting an immediate effective date for the extension of the program, so as soon as the Governor signs off on it, the termination date would be automatically extended. You'll see that in amendment three. I took out the contingency language in subsection 2. **SEE EXHIBIT(ags48a06).** The effective date doesn't have to be immediate, it could be up June 30 of 1999.

Motion/Vote: SEN. BECK moved that **AMENDMENT HB013002.ADS BE ADOPTED. Motion carried unanimously.**

Doug Sternberg explained the Pam Langley amendment. In section 2, under the original language, any remaining funds after the program terminated were going to revert to the pesticide management account in 80-8-116. These amendments would strike the language that reverted those funds and rather provide a specific provision for the expenditure of any remaining funds. You can see in number three that those would be used by the Dept. of Agriculture to cover any further costs associated with waste pesticide and pesticide container collection, disposal and recycling until the balance is expended. Rather than having it go into the Dept.'s general pesticide management account once the program terminates, under this amendment the Dept. would use any

SENATOR DEVLIN I think we could use a couple days here. We could use it to stop the fees coming in at this date and have it worded in here that the program would continue on until funds have been expended.

Pam Langley That was our intent.

Doug Sternberg If we said cover any former program costs.

SENATOR JERGESON I think what you would be doing in 2003 is stopping the fees on the sale of the product, but the provisions in here related to cost share and disposal would continue until any unexpended balance had been used up.

SENATOR DEVLIN withdrew his motion.

Doug Sternberg will redraft a motion to clarify disposal fees will continue until all funds are expended.

{Tape : 1; Side : B; Approx. Time Counter : 4.17}

EXECUTIVE ACTION ON HB 444

Motion/Vote: **SEN. BECK** moved that **AMENDMENT HB044401.ADS BE ADOPTED. Motion carried unanimously.**

SENATOR TESTER Is it wise to drop this fifteen cents to five cents and pull money out of the General Fund.

SENATOR BECK It gives it more money. They're going to animal units per month instead of animal unit for the whole season.

Doug Sternberg It still doesn't raise enough money to manage the program so they had to pull $45,000 from the General Fund. It doesn't include it on the fiscal note, but I understand **HB 2** included an appropriation from the General Fund.

SENATOR DEVLIN It's part of the Governor's budget.

SENATOR BECK It will reflect in **HB 2** but it's not in this bill. This bill does not have any of that $45,000 in it.

SENATOR TESTER If this bill is working the grazing districts differently, setting up the commission, doesn't this bill stipulate there's going to be funds needed?

SENATOR BECK We're changing it to the commission in this bill. A whole separate issue is in **HB 2** for funding for this commission. It will reflect in **HB 2**.

SENATOR TESTER If the $45,000 gets pulled out of **HB 2**, there's no funding to do this program.

SENATOR JERGESON If there's 225,000 head of cattle in it, in six months that generates $67,500. If they're only planning to generate the same $12,000, they're charging a penney an aum. I believe 5 cents an aum will raise $30,000.

SENATOR BECK What you have in this bill is the authority to charge up to five cents per animal unit. That doesn't say you have to do it. I understand if you got the $45,000 in **HB 2**, you would probably only levy a cent or something like that in this bill.

Steve Schmitz The $12,00 is what we levy now. We were thinking of increasing it to $18,000 which would be about three cents per animal unit month.

SENATOR BECK So they have room in there to go another two cents if they have to, plus the animal unit months.

Steve Schmitz The Dept. has an appropriation for fees for two things. I mentioned the $12,000 figure because we levy ten cents per animal unit in fees and that generates approximately $12,000. In addition there's a small language appropriation we have that allows us to collect up to $15,000 per year. That's the limit right now, controlled by the appropriation process of the legislature. Maximum is $15,000 that either DNRC, if **HB 444** doesn't pass, or this commission through DNRC, can collect. Even though the five cents could generate more, the appropriation process limits the amount of revenue that can be expended to $15,000 each year. At the request of the Association, the Executive put in $45,000 requested from the General Fund to help this commission get up and running. They have this appropriation for two years, per year.

SENATOR BECK Per year, a total of $90,000.

SENATOR DEVLIN I don't understand. You say you're only getting $12,000 but there's 250,000 head of cattle and you said you're charging ten cents a head. How much is that?

Steve Schmitz Ten cents per animal unit now. The Stevens Administration, in the '91 Legislation session, directed us to raise the fees to ten cents per animal unit. We're basically

collecting that as being reported to us from the 26 active grazing districts. (Change Tape).

SENATOR BECK There's 250,000 head of cattle in here. If you assessed each one of the grazers just $1.00 a year, you've raised $250,000. The cattle business isn't all that great, but neither is the General Fund of the State of Montana. I wonder if, before we send this bill out of here, we can make some changes so they can at least generate it from the district association in case it fails in **HB 2**.

Steve Schmitz I think there's more on the order of 120,000 to 130,000 of animal units. To get animal unit months, we think the conversion factor is about eight. So that would be about 960,000 aums. If you're going to figure any collections, any fees from the grazers, my recommendation is you use that as a basis to calculate your fee. I'll let you work it out with the grazing districts. I feel more comfortable with those numbers.

SENATOR BECK The fee you expect to raise here now is $12,000 annually plus the $45,000 from the General Fund. That's approximately $57,000 annually. I'd like to hold this bill until our next Executive Session. Maybe we can work something out on those fees. There's a chance it might be taken out of General Fund before we get done here. You want to get this commission going. It might have to be on a user fee basis.

SENATOR DEVLIN I agree we should take a look at this because I didn't think there was this kind of General Fund hit. I don't want it to go into the General Fund.

{Tape : 1; Side : B; Approx. Time Counter : 4.29}

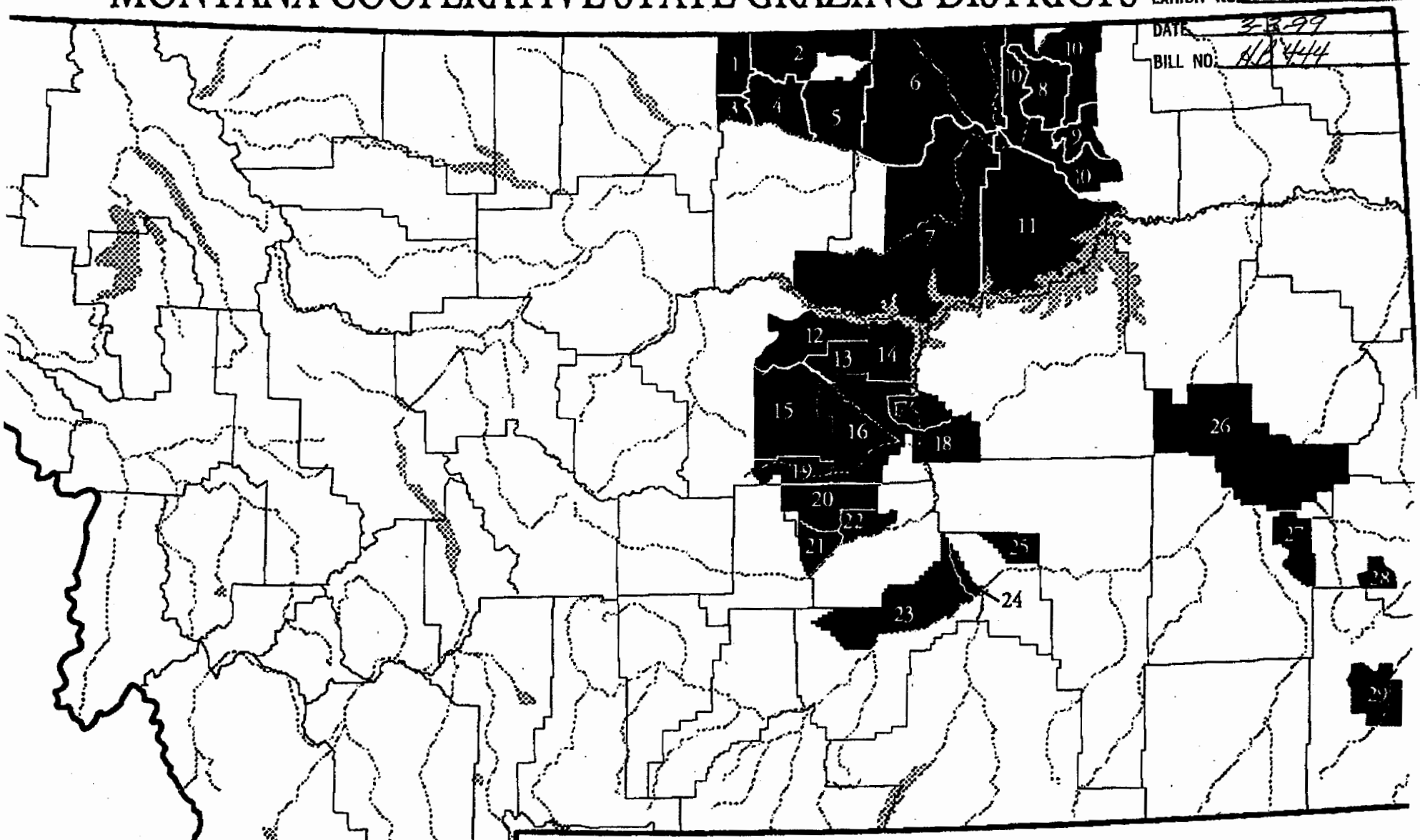
EXECUTIVE ACTION ON HB 221

Doug Sternberg In reviewing this bill, I noticed when the House amended the bill on page 2, they neglected to also correspondingly amend the title. Also the sentence they ended up with is a little convoluted. In order to clarify the title and make the title correspond clearly with the amendment that's already been added, I put together a technical amendment to correct the title and on lines eight through ten and also on page two, lines ten and eleven to just rearrange a couple of words to make that sentence read a little more correctly. **SEE EXHIBIT(ags48a07)**.

Motion: **SEN. BECK** moved **AMENDMENT 22101.ADS**.

MONTANA COOPERATIVE STATE GRAZING DISTRICTS

SENATE AGRICULTURE
EXHIBIT NO. 3
DATE 3-3-99
BILL NO. HB 444



1. North Fork
2. Cherry Ridge
3. Lohman
4. Coal Creek
5. Wayne Creek
6. North Phillips
9. Buggy Creek
10. North Valley
11. Badlands
12. Indian Buttes
13. Crooked Creek
14. Chain Buttes
17. Williams Coulee
18. Weede
19. Flatwillow
20. Devil's Basin
21. Pole Creek
22. Kilby Butte
23. Buffalo Creek
25. Froze-to-Death
26. Prairie County
27. East Custer
28. Red Buttes
29. C & B

SENATE AGRICULTURE
EXHIBIT NO. 4
DATE 3-3-99
BILL NO. HB444

DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

TESTIMONY IN SUPPORT OF HB444

OVERVIEW:
The Department has been involved in discussions with the Montana Association of State Grazing Districts for sometime regarding grazing district issues and concerns about the administration of grazing districts in Montana. Two years ago, the Association asked the legislature to create an interim Grass Conservation Advisory Committee made up of grazing district members and employees to study these issues and concerns, and to make recommendations for solutions. The Association's bill before you today, revising the Grass Conservation Act, is the result of this effort.

HISTORY:
Grazing districts are nonprofit cooperative organizations created under the Grass Conservation Act. The purpose of grazing districts is to ensure sound range management and forage use through cooperative management of diverse land ownership. There are 26 active grazing districts in Montana, most of which were created in the 1940s. Districts functioned for many years under the guidance, direction, and supervision of the Montana Grass Conservation Commission. Executive reorganization in 1972 transferred these functions to the Board of Natural Resources and Conservation and the Department. In 1995, reorganization of natural resource agencies eliminated the Board of Natural Resources and Conservation leaving the Department with the role held by the Grass Conservation Commission many years before.

Grazing district operations have changed over time as well. The greatest change has been a transition away from use of common pastures by several district members to use of individual allotments. Therefore, many grazing district functions, including adjustments of grazing privileges, are difficult to implement under current law. In addition, government land management agencies have assumed a greater role in the management of grazing and other uses on public lands within districts.

ADVISORY COMMITTEE:
At the request of the Montana Association of State Grazing Districts, the 1997 Legislature created the Grass Conservation Advisory Committee to evaluate grazing district operations, identify needed services, and recommend necessary statutory changes. The Advisory Committee, comprised of grazing district members, officials, and employees has worked on this evaluation and recommendation for over a year. The Committee's recommendations were submitted in a report to the Legislature and the Department last fall. HB 444 would implement the Committee's recommendations.

HB 444 IMPLICATIONS TO DNRC:
HB444 creates a permanent Montana Grass Conservation Commission to assume the duties and responsibilities currently assigned to the Department in statute. The Commission would be attached to the Department for administrative purposes only. The Department would provide administrative support only. The Commission would be responsible for all policy development and implementation under the provisions of HB 444.

Currently the Department receives approximately $12,000 per year from grazing fees to fund its grazing district responsibilities. These fees would be made available to the Commission. In addition, the Natural Resources Appropriation Subcommittee has approved $45,000 per year in General Funds for the grazing district program. There are no new FTE's associated with the general fund appropriation or HB 444.

AMENDMENTS:
Done on House side
The Department offers three amendments which clarify the intent of proposed language and establish an effective date of July 1, 1999. These amendments have been discussed with the Sponsor. (HANDOUT)

RECOMMENDATION:
The Department agrees that grazing districts need to make changes since district operations sometimes differ from the district statute. We respect the Association's proactive approach to have grazing district members assess and recommend needed changes. As such, the Department supports HB444.

SENATE AGRICULTURE
EXHIBIT NO. 5
DATE 3-3-99
BILL NO. HB444

Amendments to House Bill No. 444
3rd Reading Copy

For the Senate Agriculture, Livestock and Irrigation Committee

Prepared by Doug Sternberg
March 1, 1999 (12:49PM)

1. Page 17, line 17 through line 19.
Strike: section 36 in its entirety
Renumber: subsequent section

- END -

MONTANA SENATE
1999 LEGISLATURE
AGRICULTURE COMMITTEE
ROLL CALL

DATE 3-3-99

NAME	PRESENT	ABSENT	EXCUSED
SEN. REINY JABS, CHAIRMAN	✓		
SEN. WALT MC NUTT, VICE CHAIRMAN	✓		
SEN. TOM BECK	✓		
SEN. GERRY DEVLIN	✓		
SEN. PETE EKEGREN	✓		
SEN. MIKE HALLIGAN	✓ 4:29		✓
SEN. RIC HOLDEN	✓		
SEN. GREG JERGESON	✓		
SEN. KEN MESAROS	✓		
SEN. LINDA NELSON	✓		
SEN. JON TESTER	✓		

SEN:1999
wp.rollcall.man
CS-09

DATE 3-3-99

SENATE COMMITTEE ON Agriculture

BILLS BEING HEARD TODAY: HB 130, 391, 444

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Ralph Peck	444-3144	MT Dept of Ag	130 391	✓ ✓	
Bill Thomas, Rep		HD93	444	✓	
Ron de Yong		MT. Farmers Union 391	130 444	✓ ✓	
Steve Schmitz		DNRC	HB444	✓	
John Mundinger	442-3420	MSGA	HB444	✓	
Bob Stephens		MT Grain Growers	130 391 444	✓	✓
Pam Langley		MABA	130 391	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

(2)

DATE 3-3-99

SENATE COMMITTEE ON Agriculture

BILLS BEING HEARD TODAY: HB 130, 391, 444

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Jim Raths	406-575-4461	Mt Assn State Grazing Districts	444	X	
John Schultz	406 428-2107	MT. assn. State Grazing Dist.	* 444	✓	
Scott Kulbeck	442-9476	Montana Farm Bureau	444 / 130	✓ ✓	
Candace Payne	442-7450	WIFC	HB 391 ~~130~~	✓	
Jim Peterson	442-3420	MSGA	444 / 391	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

AN ACT REVISING CERTAIN PROVISIONS OF THE GRASS CONSERVATION ACT; CREATING THE MONTANA GRASS CONSERVATION COMMISSION; PRESCRIBING THE MEMBERSHIP AND DUTIES OF THE COMMISSION; TRANSFERRING PRIMARY ADMINISTRATION OF THE GRASS CONSERVATION ACT FROM THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO THE MONTANA GRASS CONSERVATION COMMISSION; REVISING DEFINITIONS; REVISING THE ADMINISTRATIVE FEE FOR IMPLEMENTING THE GRASS CONSERVATION ACT FROM 15 CENTS PER ANIMAL UNIT TO 10 CENTS PER ANIMAL UNIT MONTH OF PREFERENCE; ELIMINATING THE 40-YEAR LIMIT ON THE TERM OF INCORPORATION OF A STATE GRAZING DISTRICT; REQUIRING UPDATE AND REVIEW OF THE BYLAWS OF INCORPORATED STATE DISTRICTS; ALLOWING CERTAIN MEMBERS OF A DISTRICT THAT IS BEING LIQUIDATED TO MEET THE HIGHEST BID ON DISTRICT ASSETS; REVISING DISTRICT VOTING PROCEDURES; REVISING PROCEDURES FOR AND INCREASING THE FEE ASSOCIATED WITH TRESPASSING LIVESTOCK; AMENDING SECTIONS 76-16-103, 76-16-106, 76-16-107, 76-16-108, 76-16-109, 76-16-111, 76-16-201, 76-16-202, 76-16-203, 76-16-204, 76-16-206, 76-16-207, 76-16-208, 76-16-209, 76-16-210, 76-16-211, 76-16-212, 76-16-302, 76-16-303, 76-16-304, 76-16-307, 76-16-308, 76-16-311, 76-16-315, 76-16-316, 76-16-319, 76-16-323, 76-16-325, 76-16-403, 76-16-406, 76-16-413, AND 76-16-414, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-16-103, MCA, is amended to read:

"**76-16-103. Definitions.** Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Animal unit" means one cow, one horse, or five sheep, 6 months ~~old or over~~ of age or older.

(2) "Animal unit month" or "AUM" means one cow/calf pair, one horse, or five sheep, grazed individually for 1 month, or an equivalency as determined by a local grazing district.

(3) "Assessment" means a special levy imposed on permittee members by the state district to

raise funds for specific purposes as provided in 76-16-323(1). The term does not include fees.

~~(3)~~(4) "Commensurate property" means land that is privately owned or controlled and that is not range.

(5) "Commission" means the Montana grass conservation commission provided for in [section 33].

~~(4)~~(6) "Department" means the department of natural resources and conservation provided for in Title 2, chapter 15, part 33.

~~(5)~~(7) "Dependent commensurate property" is commensurate property that:

(a) requires the use of range in connection with it to maintain its proper use;

(b) produces or whose owner furnishes as part of the owner's past customary practice the proper feed necessary to maintain livestock during the time other than the established grazing period on the range; and

(c) has been used in connection with the range for a period of any 3 years or for any 2 consecutive years in the 5-year period immediately preceding June 28, 1934, or in the case of districts organized after March 15, 1945, for a 5-year period immediately preceding the date of organization of the districts.

~~(6)~~(8) "Grazing preference" is a right to obtain a grazing permit from a state district, expressed in animal unit months. Grazing preferences, expressed in AUMs, must be the basis for determining a member's proportionate interest in grazing district assets.

~~(7)~~(9) "Permits" are evidence of grazing privileges granted by state districts.

~~(8)~~(10) "Person" means a natural person or persons, unincorporated associations, partnerships, corporations, and governmental departments or agencies.

~~(9)~~(11) "Range" is the land within a grazing district upon which grazing permits are granted to maintain livestock through the established grazing period.

(12) "Secretary" means the secretary of the Montana grass conservation commission.

~~(10)~~(13) "State district" means a nonprofit cooperative organization incorporated under this chapter and its board of directors. The term includes all lands owned or controlled by the state district or its members."

Section 2. Section 76-16-106, MCA, is amended to read:

"**76-16-106. ~~Department~~ Commission fees.** (1) The ~~department~~ commission may impose fees against the ~~several~~ state grazing districts of the state in an amount not in excess of ~~15~~ 10 cents per animal unit month of preference, based upon the number of animal ~~units~~ unit months per year for which the district grants permits, to defray expenses incurred by the ~~department~~ commission in carrying out its powers and duties under this chapter.

(2) These fees ~~shall~~ must be held in the state special revenue fund to be expended by order and direction of the ~~department~~ commission for the operation and administration of the ~~department's functions~~ commission under this chapter.

(3) If a state district fails or refuses to pay the fee on or before October 1 of each year and after the district is provided with a full report from the department of all money collected and expended by it for its fiscal year ~~next~~ preceding that date, the ~~department~~ commission may compel and levy collection and payment by writ of mandate or other appropriate remedy against the state district."

Section 3. Section 76-16-107, MCA, is amended to read:

"**76-16-107. Range for wild game animals.** In each state district a sufficient carrying capacity of range ~~shall~~ must be reserved for the maintenance of a reasonable number of wild game animals to use the range in common with livestock grazing in the district. The ~~department~~ commission may act in an advisory capacity to the department of fish, wildlife, and parks in the protection of wildlife within the boundaries of all state districts. ~~The department shall encourage the transfer of beaver from streams where they are doing damage to other streams where they are needed.~~"

Section 4. Section 76-16-108, MCA, is amended to read:

"**76-16-108. Nature of rights.** (1) Preferences or rights under this chapter through the creation of the district or the issuance of permits ~~or preferences~~ based on AUMs of preference are statutory and do not create any vested right, title, interest, or estate in or to the lands owned or controlled by the district ~~excepting~~ except as ~~herein~~ provided in this chapter.

(2) ~~Any~~ A person who chooses to become a member of ~~any~~ a state district is bound by all the provisions of this chapter and is limited to the statutory remedies ~~therein~~ contained in this chapter, and

~~no~~ a court ~~shall have~~ has no jurisdiction to consider any right claimed under this chapter ~~excepting only~~ except by judicial review from the final decision of the commission as ~~herein~~ provided in this chapter."

Section 5. Section 76-16-109, MCA, is amended to read:

"**76-16-109. Appeal procedure.** (1) Notice of a decision of a state district must be given in writing by the secretary of the state district to the interested parties or their attorneys by certified mail at the address as shown on the records of the district.

(2) A person affected by the decision of a state district may appeal to the ~~department~~ commission, and the ~~department~~ commission shall hear and decide all those appeals. An appeal from the decision of the district to the ~~department~~ commission may be taken by filing written notice of the appeal with the ~~department~~ commission, by filing a copy of the notice of appeal with the secretary of the district, and by serving a copy of the notice of appeal by certified mail upon any interested parties who have appeared or upon their attorneys within 60 days after receiving written notice of the decision of the district. The appellant shall also file with the ~~department~~ commission proof by affidavit of the filing and service of the notice of appeal. The appeal to the ~~department~~ commission must be taken and review of the appeal must be upon the record of any hearing conducted and considered by the state district. However, the ~~department~~ commission may, at its discretion and for good cause shown, permit additional testimony to be submitted."

Section 6. Section 76-16-111, MCA, is amended to read:

"**76-16-111. What constitutes receipt of notice.** In all cases where notices are given permittees under this chapter by registered or certified mail and addressed to the post-office address of the permittee as shown by the records of the state district, the notices ~~shall~~ must be considered received by the permittee when deposited in the United States post office by the district or by the ~~department~~ commission."

Section 7. Section 76-16-201, MCA, is amended to read:

"**76-16-201. Procedure to incorporate state district.** (1) If three or more persons who own or control commensurate property and are livestock operators within the area proposed to be created into

a state district decide to incorporate a state district, they shall submit a statement in writing to the ~~department~~ commission together with a plat showing the proposed boundaries of the area.

(2) The statement shall set forth the name of the proposed state district, the county or counties in which the proposed state district is located, and the names and addresses of all operators of land and livestock units within the area. The ~~department~~ commission may require any additional information it considers necessary.

(3) On receipt of the statement and plat and any additional information, the ~~department~~ commission shall fix a time and place of a hearing for approval within the district or county, which may not be less than 30 days or more than 60 days after receipt of the statement."

Section 8. Section 76-16-202, MCA, is amended to read:

"**76-16-202. Notice and hearing on question of incorporation.** (1) The persons deciding to incorporate the state grazing district shall cause notice of the hearing to be given by publishing a notice prescribed by the ~~department~~ commission once a week for 2 consecutive weeks, the first publication to be at least 30 days prior to the date of hearing, in a newspaper of general circulation in the area.

(2) The ~~department~~ commission shall hear evidence offered in support of or in opposition to the creation of the state district and shall make a full inquiry into the advisability of its creation."

Section 9. Section 76-16-203, MCA, is amended to read:

"**76-16-203. Certificate of approval.** If the creation of the state district appears feasible, beneficial, and desirable to those who own or control more than 50% of the lands to be included in the district, the ~~department~~ commission may issue a certificate of approval."

Section 10. Section 76-16-204, MCA, is amended to read:

"**76-16-204. Articles of incorporation.** (1) Upon the issuance of the certificate of approval, three or more persons who own or control commensurate property and are livestock operators within or near the proposed state district may prepare articles of incorporation and file them in the office of the secretary of state without payment of fees.

(2) The articles ~~shall~~ must be accompanied by the certificate of approval and signed, sealed, and

acknowledged. The articles, as prescribed by the ~~department~~ commission, shall substantially state the following:

(a) the name of the state district, the last four words of which ~~shall~~ must be "cooperative state grazing district";

(b) the county or counties in which the state district is located and the place where the principal office and business of the state district will be conducted;

(c) the membership fee for each member of the state district, which may not be more than $5;

~~(d) the term for which the state district is incorporated, which may not exceed 40 years;~~

~~(e)~~(d) the names and residences of the persons who subscribe, together with a statement that each owns or controls commensurate property and is a livestock operator within the proposed state district;

~~(f)~~(e) the powers of the state district, which may not be inconsistent with this chapter;

~~(g)~~(f) the officers of the state district, their principal duties, and the principal duties of the board of directors;

~~(h)~~(g) the purpose for which the state district is incorporated."

Section 11. Section 76-16-206, MCA, is amended to read:

"**76-16-206. Amending articles of incorporation.** (1) A state district may amend its articles of incorporation by a two-thirds vote of all members present at any regular or special meeting of its members and the approval of the ~~department~~ commission. The only notice of the meeting ~~which~~ that is necessary is the notice of meetings of members as required by the bylaws of the district. The amended articles of incorporation and bylaws ~~shall~~ must be submitted to the ~~department~~ commission for approval. Upon approval, the ~~department~~ commission shall issue a certificate of approval. The amended articles of incorporation ~~shall~~ must be filed by the secretary of state without charge, but may not be filed unless accompanied by the certificate of approval. If the articles of incorporation are amended, the amendment ~~shall~~ must be filed with the county clerk or clerks.

(2) Upon the filing of the amended articles with the secretary of state and the proper county clerk or clerks, the district possesses the same powers and ~~shall be~~ is subject to the same obligations as if incorporated under this chapter."

Section 12. Section 76-16-207, MCA, is amended to read:

"**76-16-207. Filing of map or plat of district.** A state district shall, upon completion of its organization, file with the commission and the county clerk and recorder of each county in which its lands lie a map or plat of the external boundaries of the state district showing the allocation of individual allotments, members running in common allotments, allotment names, and references to lands used as base properties, ~~and~~ along with a copy of its articles of incorporation. If the boundaries of a state district are changed and the changes are approved by the ~~department~~ commission after a hearing, the state district shall file with the county clerk or clerks and with the commission a revised map or plat indicating the changed boundaries."

Section 13. Section 76-16-208, MCA, is amended to read:

"**76-16-208. Adoption of bylaws and periodic review -- annual report.** (1) A state district incorporated under this chapter shall within 60 days after its incorporation adopt bylaws approved by the ~~department~~ commission. The bylaws may be amended or revised with the approval of the ~~department~~ commission. Each incorporated district shall review and update its bylaws to ensure compliance with this chapter and the general laws of this state. The first review and update must be completed no later than January 1, 2001. Subsequent review and update must be completed at reasonable intervals, not to exceed 5 years.

(2) Each state district incorporated under this chapter shall report annually to the commission any changes to the allocation of grazing preferences, redefinitions of grazing allotment boundaries, or dispositions of base properties within the district. The annual reports must include an updated plat depicting current allocation of preferences, grazing allotment boundaries, and a list of all members running in common allotments where more than one member may have grazing preferences."

Section 14. Section 76-16-209, MCA, is amended to read:

"**76-16-209. Alteration of district.** (1) A state district may change the boundaries of the district, merge with another state district organized under this chapter, or subdivide.

(2) A merger may not be made unless consented to by a majority of the members of each

merging state district and approved by the ~~department~~ commission after a hearing.

(3) A subdivision may not be made unless consented to by a majority of the members in the affected area and approved by the ~~department~~ commission after a hearing."

Section 15. Section 76-16-210, MCA, is amended to read:

"**76-16-210. Request for dissolution of district.** A state district, with the written consent of three-fourths of its permittee members, may at any time request the ~~department~~ commission to dissolve the state district subject to the preferences of this chapter. The commission shall establish procedures for the dissolution of any state district."

Section 16. Section 76-16-211, MCA, is amended to read:

"**76-16-211. Dissolution of district.** (1) If a state district ceases to function in accordance with its bylaws and this chapter and it appears to the ~~department~~ commission that the reinstatement and future operation of the district is no longer feasible, beneficial, and desirable to ~~those who own or control more than 50% of the lands included in~~ the majority of members of the district, the ~~department~~ commission, after a hearing and upon 30 days' notice in writing, published for 2 consecutive weeks in a newspaper of general circulation in or nearest to the district, may dissolve the district.

(2) A notice of the dissolution must be filed by the ~~department~~ commission with the secretary of state and the clerk and recorder of the county or counties in which the district is located."

Section 17. Section 76-16-212, MCA, is amended to read:

"**76-16-212. Distribution of district assets.** (1) When a hearing on the request for dissolution has been held before the ~~department~~ commission and the board's consent has been given, the directors shall distribute the assets of the state district, either in items of property or in cash or in both. Distribution ~~shall~~ must first be made with the approval of the ~~department~~ commission to creditors up to the amount of their claims. Distribution ~~shall~~ must then be made with the approval of the ~~department~~ commission to permittee members upon the basis of their proportionate interest in the assets.

(2) If assets must be liquidated, the directors shall offer them for sale at public auction or through another competitive bidding procedure after publication of a notice of the sale once a week for 2

successive weeks in a newspaper of general circulation within the state district. District members holding grazing preference directly proportional to and associated with the assets being liquidated must be offered an opportunity to meet the highest bid submitted through the bidding process."

Section 18. Section 76-16-302, MCA, is amended to read:

"**76-16-302. Membership in district.** (1) Membership in the district is limited to persons engaged in the livestock business who own or lease forage-producing lands within or near the district, except that the agent of a person entitled to membership in the district may become a member in place of ~~his~~ the agent's principal.

(2) If an agent becomes a member, ~~his~~ the agent's qualifications for membership and ~~his~~ the agent's obligations to and the privileges in the district ~~shall~~ must be measured by those ~~his~~ that the agent's principal would have had if ~~he~~ the principal had elected to become a member. An agent and ~~his~~ the agent's principal may not both be members of the district unless the agent has individual qualifications for membership ~~which~~ that are separable from and independent of those of ~~his~~ the principal.

(3) ~~All members who possessed preferential grazing permits~~ Livestock producers owning or controlling base property within the designated boundaries of the district and who held preference during the preceding grazing season or ~~who possess such a permit~~ at the time of voting ~~shall~~ must be designated as permittee members."

Section 19. Section 76-16-303, MCA, is amended to read:

"**76-16-303. Voting rights.** ~~Permittee~~ Only permittee members ~~only~~ in good standing as set forth in the district bylaws are entitled to vote on all issues submitted to a vote of the members. Individuals or livestock producers who operate on temporary permits may not vote. A permittee member has only one vote. Voting by proxy may not be permitted unless clearly outlined procedures for proxy voting are incorporated into the district bylaws."

Section 20. Section 76-16-304, MCA, is amended to read:

"**76-16-304. Effect of transfer of land.** When a member disposes of a part of the lands or leases owned by ~~him~~ that member so that another person becomes the owner of the lands or leases and acquires

the right to membership, then the rights and interest involved ~~shall~~ must be determined by the directors of the state district with the approval of the ~~department~~ commission."

Section 21. Section 76-16-307, MCA, is amended to read:

"**76-16-307. ~~Requirement to lease available~~ Leasing of state lands.** State land ~~situated~~ that is situated within the boundaries of a grazing district created under this chapter ~~and that is not otherwise disposed of by the department must be leased by the grazing district at a reasonable rental when offered for lease to the officers of the grazing district by the department. However, the officers of the grazing district may appear or submit evidence in writing before the department and show reason and cause for a change in the rental. If there is cause, the department may reappraise the land in question~~ may be leased by one or more members of a grazing district if the lease is in accordance with existing laws and regulations of the department. The board of directors of a cooperative state district may assist members of a grazing district in acquiring and administering a state grazing lease. The ~~department~~ commission shall require that all state districts comply with this section."

Section 22. Section 76-16-308, MCA, is amended to read:

"**76-16-308. Regulation of stock grazing in district.** A state district may:

(1) specify the breed, quality, and number of male breeding animals ~~which~~ that each member must furnish when stock is grazing in common in the state district;

(2) regulate the driving of stock over, across, into, or through the range and collect fees ~~therefor~~;

~~(3) impose sanitary provisions, regulations, and practices~~ for driving stock."

Section 23. Section 76-16-311, MCA, is amended to read:

"**76-16-311. Control of trespassing livestock.** (1) The state district or its duly authorized agent controlling the land upon which ~~such~~ wrongful entry is made by trespassing livestock may take the livestock into its possession ~~such livestock~~ and shall reasonably care for ~~same~~ the livestock while in its possession and may retain possession of ~~said~~ the livestock and have a lien and claim ~~thereon~~ on the livestock as security for payment of ~~such~~ damages and reasonable charges for the care of ~~said~~ livestock while in its possession.

(2) The state district taking ~~up such~~ possession of trespassing livestock shall, within 72 hours after taking possession ~~thereof~~, notify ~~said~~ the owner, owners, or person in charge ~~thereof~~ of the livestock by a notice in writing describing ~~said~~ the livestock by number of animals and brands ~~thereon~~ on the livestock, if any, the amount of damages claimed to date, and the charge per animal unit per day for caring for and feeding the ~~same~~ livestock thereafter~~, such charges~~. Charges may not ~~to~~ exceed ~~50 cents~~ $2 per animal unit per day~~, and describing by general description~~. The notice must generally describe the location ~~of the premises upon which said~~ where the livestock is held and ~~requiring such~~ require the owner or owners, within 10 days after receiving ~~said~~ the notice, to take ~~said~~ the livestock away after making full payment of all damages and costs ~~of said livestock~~.

(3) In case the parties do not agree as to the amount of damages, the state district taking ~~up such~~ possession of the livestock may at the expense of the owner retain a sufficient ~~amount~~ number of ~~such~~ livestock to cover the amount of damages claimed by the state district. However, the owner may, upon furnishing a ~~good and~~ sufficient bond, conditioned for the payment to the state district of all sums, including costs that may be recovered by ~~said~~ the state district in a civil action to foreclose its lien, have returned to ~~him~~ the owner all livestock held ~~as aforesaid, and said~~. The state district ~~shall be~~ is liable to ~~such~~ the owner for any loss or injury to ~~said~~ the livestock accruing through the state district's lack of reasonable care.

(4) If the state district taking ~~up~~ possession of the livestock ~~shall fail~~ fails to recover in a civil action a sum equal to that offered to the state district by the owner of the livestock, the ~~former~~ state district shall bear the expense of keeping and feeding ~~same~~ the livestock while in its possession. ~~Such notice~~ Notice may be given by personal service on the ~~said~~ owner, owners, or person in charge ~~thereof, by leaving said notice at his usual place of residence with some member of his family over the age of 14 years, or~~ of the livestock by sending ~~said~~ notice by prepaid registered or certified mail, addressed to ~~his~~ that person's last known place of residence. ~~Said service~~ Service by registered or certified mail ~~shall be deemed~~ is considered complete upon the deposit of ~~said~~ the notice in the post office."

Section 24. Section 76-16-315, MCA, is amended to read:

"**76-16-315. Procedure upon inability to locate person responsible for trespassing livestock.** ~~The~~ If a state district ~~taking up such~~ takes possession of livestock ~~(if,~~ after due diligence to discover the

owner or possessor of ~~such~~ the livestock~~, such~~ and the owner or possessor cannot be found or the ownership of ~~such~~ the livestock discovered~~)~~ or ~~the~~ if a party ~~taking up such~~ takes possession of livestock ~~(if said~~ and the owner or claimant ~~shall refuse~~ refuses to pay the amount of damages or charges or to furnish bonds ~~therefor~~, as ~~herein~~ provided~~)~~ in 76-16-311, the state district or person shall, within 10 days from the time that ~~said~~ the livestock was taken ~~up~~ into possession, deliver to the sheriff ~~or a constable~~ of the county in which the livestock was taken ~~up~~ into possession or to the nearest state livestock inspector a statement containing the information required to be given in the notice~~, hereinbefore~~ set out~~, and~~ in 76-16-311 ~~addition thereto, he shall mail, by prepaid registered or certified mail, a copy of said statement addressed to the nearest state livestock inspector~~."

Section 25. Section 76-16-316, MCA, is amended to read:

"**76-16-316. Sale of trespassing livestock.** (1) Upon receipt of the statement referred to in 76-16-315, the sheriff ~~or constable~~ shall proceed to advertise and sell at public auction the livestock ~~so~~ taken up.

(2) ~~Such~~ The livestock ~~shall~~ must be sold on 5 days' notice posted at the courthouse of each county in which any portion of the district lies and ~~posted~~ in ~~three public places~~ a newspaper of general circulation in ~~such~~ the county~~, one of which shall be within the district~~. ~~Such~~ The sheriff may require from the state district a ~~good and~~ sufficient bond, conditioned:

(a) that the state district has used reasonable diligence to discover the owner of ~~such~~ the stock and to notify ~~him~~ the owner in the premises;

(b) ~~and~~ that all requirements of law on the part of the state district to be performed in the premises have been performed; and

(c) ~~indemnifying~~ that the sheriff is indemnified against all liability for the sale of ~~said~~ the livestock except as to ~~his~~ the sheriff's own failure to perform the things required ~~of him~~ by law."

Section 26. Section 76-16-319, MCA, is amended to read:

"**76-16-319. No liability for official acts.** An officer, the ~~department~~ commission, an employee of an officer or the ~~department~~ commission, or an employee of any county or of any state district is not liable for any act performed in good faith in discharging official duties under this chapter. All acts are

presumed to have been in good faith and in conformity with this chapter."

Section 27. Section 76-16-323, MCA, is amended to read:

"**76-16-323. District finances.** A state district may:

(1) fix and determine the amount of grazing fees to be imposed on members or nonmembers for the purpose of paying leases and operating expenses and fix and determine the amount of assessments to be made on members on ~~an animal unit~~ a grazing preference basis for the purpose of acquiring lands by purchase or for the purpose of constructing improvements in the state district;

(2) set up and maintain a reasonable reserve fund;

(3) borrow money and if necessary mortgage the physical assets of a state district to provide for operation and development, provided that at least 80% of the permittee members of the state district consent in writing to the borrowing and the borrowing has been approved by the ~~department~~ commission. This subsection does not confer power upon a state district to mortgage the property of the individual members of the district."

Section 28. Section 76-16-325, MCA, is amended to read:

"**76-16-325. Compliance with ~~department~~ commission orders required.** (1) If a state district or the directors of a state district fail to comply with an order of the ~~department~~ commission, the ~~department~~ commission may order a hearing on the order within the district or county and cite the directors of the district to appear before the ~~department~~ commission.

(2) If upon the hearing it appears that the directors refuse to perform the duties of their office as provided in this part and as set forth in the articles of incorporation and the bylaws of the association or refuse to comply with a lawful order of the ~~department~~ commission, the directors may be summarily removed from office by the ~~department~~ commission, and the district shall elect new officers. During the period until the election, the ~~department~~ commission may operate and manage the affairs of the state district.

(3) The expense of operating and managing the affairs of a noncomplying state district must be paid by the noncomplying state district before it may be reinstated."

Section 29. Section 76-16-403, MCA, is amended to read:

"**76-16-403. Procedure if reduction in grazing privileges necessary.** (1) If ~~reductions~~ a reduction in grazing privileges ~~become~~ becomes necessary, operators with temporary permits will be reduced ~~first~~ on a proportionate basis prior to any reduction to any holder of grazing preference. ~~When the extent of reduction of privileges exceeds that of temporary permits, then the rights of operators with both dependent commensurate property and commensurate property shall be reduced together on a proportionate basis.~~

(2) Reductions of grazing preference for individual members that result from actions beyond the control of the state district or the board of directors of a cooperative state district or as a result of actions or of the failure to take appropriate actions by the holder of the preference in question, do not require a general reduction in grazing preference and the state district may not be compelled to require proportionate reductions in grazing preference by the membership of the state district."

Section 30. Section 76-16-406, MCA, is amended to read:

"**76-16-406. Transfer of preferences.** (1) Upon application by a permittee, the state district with the approval of the ~~department~~ commission may allow a preference based on ownership or control of dependent commensurate or commensurate property to be transferred to other property of sufficient commensurability~~; however~~. However, in any transfer of preference from dependent commensurate or commensurate property controlled but not owned by the applicant, the applicant must have had control and use of the dependent commensurate or commensurate property and the preference appurtenant ~~thereto~~ to the property for 5 consecutive years and must have established and maintained the livestock operation upon which the dependency was established by use or priority immediately prior to the application for transfer.

(2) In addition, the transfer may not interfere with the stability of livestock operations or with proper range management and may not affect adversely the established local economy. A transfer may not be allowed without the written consent of the owner or owners of the dependent commensurate or commensurate property from which the transfer is to be made and the owner or owners of any encumbrances on the property. A transfer is not effective until approved by the ~~department~~ commission.

(3) All expenses involved under the application ~~shall~~ must be borne by the applicant."

Section 31. Section 76-16-413, MCA, is amended to read:

"**76-16-413. Effect of revocation.** (1) When a preference is revoked, it is detached from the dependent commensurate or commensurate property to which it was formerly appurtenant and it immediately shifts to the state district. A revocation includes all rights, privileges, and authorities associated with a preference.

(2) The state district may then allocate it to either dependent commensurate or commensurate property in the manner provided by its bylaws."

Section 32. Section 76-16-414, MCA, is amended to read:

"**76-16-414. Equalization of district assets.** (1) Whenever a state district ~~shall possess~~ possesses reserves, the values of which are greater than its liabilities, and the state district ~~shall determine~~ determines that a part of ~~such~~ the reserves is in excess of its reasonable needs to operate the district, ~~such~~ the state district may refund to the permittee members their proportionate share of ~~such~~ the reserves as determined at the last annual accounting.

(2) Whenever a state district ~~shall possess~~ possesses reserves and physical assets, the values of which are greater than its liabilities, and a permittee member ~~shall lose his~~ loses a grazing preference or any portion of a grazing preference, ~~he shall be~~ the permittee member is entitled to receive ~~his~~ a proportionate share of the value of ~~such~~ the excess from the state district, as determined by the annual accounting of the state district. Valuation must be as prescribed by the bylaws of the state district. The state district may set off the amount of any claim it may have against ~~such~~ a former member.

(3) Whenever a new member ~~shall receive~~ receives a grazing preference, ~~he~~ the new member shall, as a condition of receiving ~~such~~ the preference, pay to the state district the value of the equitable interest in the physical assets and reserve fund ~~which~~ that accrues to ~~him~~ the new member by virtue of ~~such~~ membership. ~~Such~~ The value ~~shall~~ must be determined at the time of receiving ~~such~~ a preference, as prescribed by the bylaws of the state district, and upon the basis of the determination of value of ~~such~~ physical assets and reserves made at the last annual accounting."

Section 33. Creation of Montana grass conservation commission -- membership -- meetings --

compensation. (1) There is a Montana grass conservation commission. The commission must be composed of five members appointed by the governor to serve staggered 3-year terms. Beginning on January 1, 2000, one member shall serve a 1-year term and two members shall serve 2-year terms, with assignment of terms based on a random drawing.

(2) (a) The governor, after giving full consideration to representation by both large and small operators, shall appoint:

(i) two members who are either officers of or who serve on the board of directors of a state grazing district;

(ii) two members who hold active preference rights within a state grazing district; and

(iii) one member of the public who possesses a general understanding of the livestock industry and the proper use of rangelands within state grazing districts for the purpose of livestock production.

(b) Ex officio members may be appointed by the commission as needed.

(3) Members may not be appointed for more than three consecutive terms. The commission shall annually elect from among its members a presiding officer and a vice presiding officer. The presiding officer shall preside over all meetings of the commission, except that the vice presiding officer shall assume the duties of the presiding officer in the absence of the presiding officer.

(4) The commission shall meet annually at the main offices of the department in Helena. The commission may hold other meetings at times and places as necessary upon the call of the presiding officer or upon the request of a majority of commission members, and upon at least 14 days' written notice to the commission members of the time and place of the meeting. A majority of commission members constitutes a quorum for the transaction of business. The commission shall keep accurate records of all business that is considered, and the presiding officer shall sign all orders, minutes, and other documents of the commission.

(5) Commission members may receive no compensation for their services, but members are entitled to compensation for actual expenses incurred in carrying out their duties, including travel and per diem.

(6) The commission is allocated to the department for administrative purposes only as provided in 2-15-121. The commission shall, if it determines that personnel services are required, hire its own personnel, and 2-15-122(2)(d) does not apply. The secretary must be employed at the discretion of the

commission.

Section 34. Powers of commission. The commission has all the powers enumerated in this chapter and any other powers necessary or incidental to carrying out the full purpose and intent of this chapter, including but not limited to:

(1) conducting hearings on issues brought before the commission and conducting investigations into matters affecting the commission or the operation of state grazing districts, including appeals of decisions made by the board of directors of an individual state grazing district or other actions taken in accordance with this chapter;

(2) administratively promoting and fostering an atmosphere of cooperation and mutual trust between the federal bureau of land management, the United States forest service, the department, and cooperative state grazing districts and upholding the terms and conditions of any memorandum of understanding between those entities with regard to provisions noted in the Federal Land Policy and Management Act, the Public Rangelands Improvement Act, the Taylor Grazing Act, and this chapter; and

(3) prescribing methodologies to be used for the reallocation of grazing preference within cooperative state grazing districts that, for whatever reason, no longer have access to historical preference records.

Section 35. Codification instruction. [Sections 33 and 34] are intended to be codified as an integral part of Title 76, chapter 16, and the provisions of Title 76, chapter 16, apply to [sections 33 and 34].

Section 36. Effective date. [This act] is effective on July 1, 1999.

- END -